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सं. 36] नई दिल्ली, सितम्बर 3—सितम्बर 9, 2006, शनिवार/भाद्र 12—भाद्र 18, 1928
No. 36] NEW DELHI, SEPTEMBER 3—SEPTEMBER 9, 2006, SATURDAY/BHADRA 12—BHADRA 18, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पुथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

भारतीय रिजर्व बैंक

नई दिल्ली, 22 जून, 2006

का.आ. 3605.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 42 की उप-धारा (1) में किये गये संशोधन के परिणामस्वरूप अनुसूचित राज्य सहकारी बैंकों तथा क्षेत्रीय ग्रामीण बैंकों के संबंध में कुल मांग और मीयादी देयताओं के 3 प्रतिशत की सांविधिक न्यूनतम प्रारक्षित नकदी निधि अनुपात की अपेक्षा 22 जून 2006 से विद्यमान नहीं है। साथ ही, भारतीय रिजर्व बैंक अधिनियम, 1934 की धारा 42 की संशोधित उप-धारा (1) के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए और देश में मौद्रिक स्थिरता बनाये रखने की जरूरत को देखते हुए, भारतीय रिजर्व बैंक इसके द्वारा यह अधिसूचित करता है कि प्रत्येक अनुसूचित राज्य सहकारी बैंक/क्षेत्रीय ग्रामीण बैंक को 22 जून 2006 की अधिसूचना सं. ग्राआरवि. आरएफ. सं. 6107/07-02-01/2005-06 में परिकल्पित छूट के अधीन अपनी कुल मांग और मीयादी देयताओं के 5 प्रतिशत का प्रारक्षित नकदी निधि अनुपात जारी रखना चाहिए। यह 11 सितंबर 2004 की अधिसूचना ग्राआरवि. सं. 172/07-02-05/2004-05 के आंशिक आशोधन में किया गया है।

[ग्राआरवि. आरएफ. सं. 6106/07-02-01/2005-2006]

वी. एस. दास, कार्यपालक निदेशक

RESERVE BANK OF INDIA

New Delhi, the 22nd June, 2006

S.O. 3605.—Consequent upon the amendment carried out to Sub-section (1) of Section 42 of the Reserve Bank of India Act, 1934 (2 of 1934), the statutory minimum Cash Reserve Ratio (CRR) requirement of 3 per cent of the total demand and time liabilities no longer exists in respect of Scheduled State Co-operative Banks and Regional Rural Banks with effect from June 22, 2006. Further, in exercise of the powers conferred under the amended Sub-section (1) of Section 42 of the Reserve Bank of India Act, 1934 and having regard to the needs of securing monetary stability in the country, the Reserve Bank of India hereby notifies that every Scheduled State Co-operative Bank/Regional Rural Bank should continue to maintain a Cash Reserve Ratio of 5 per cent of its total demand and time liabilities subject to the exemptions as envisaged in Notification No. RPCD. RF. No. 6107/07-02-01/2005-2006 dated June 22, 2006. This is in partial modification of the notification RPCD. No. 172/07-02-05/2004-2005 dated September 11, 2004.

[RPCD. RF. No. 6106/07-02-01/2005-2006]

V. S. DAS, Executive Director

नई दिल्ली, 22 जून, 2006

का.आ. 3606.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 42 की उप-धारा (1) में किये गये संशोधन के परिणामस्वरूप अनुसूचित राज्य सहकारी बैंकों तथा क्षेत्रीय ग्रामीण बैंकों के संबंध में कुल मांग और मीयादी देयताओं के 3 प्रतिशत की सांख्यिक न्यूनतम प्रारक्षित नकदी निधि अनुपात की अपेक्षा 22 जून, 2006 से विद्यमान नहीं है। साथ ही, भारतीय रिजर्व बैंक अधिनियम, 1934 की धारा 42 की उप-धारा (1) में किए गए संशोधन के परिणामस्वरूप, भारतीय रिजर्व बैंक देश में मौद्रिक स्थिरता बनाये रखने की जरूरत को देखते हुए, अनुसूचित बैंकों के लिए किसी न्यूनतम दर या उच्चतम दर के बिना प्रारक्षित नकदी निधि अनुपात (सीआरआर) निर्धारित कर सकता है। इन शक्तियों के अनुसार, भारतीय रिजर्व बैंक ने अनुसूचित राज्य सहकारी बैंकों तथा क्षेत्रीय ग्रामीण बैंकों द्वारा बनाये रखे जानेवाले उनकी मांग और मीयादी देयताओं के 5 प्रतिशत के प्रारक्षित नकदी निधि अनुपात की दर को यथास्थिति बनाये रखने का निर्णय किया है। भारतीय रिजर्व बैंक अधिनियम, 1934 की धारा 42 की उप-धारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय रिजर्व बैंक प्रत्येक अनुसूचित राज्य सहकारी बैंक/क्षेत्रीय ग्रामीण बैंक को उनके द्वारा निम्नलिखित देयताओं पर 5 प्रतिशत का प्रारक्षित नकदी निधि अनुपात बनाये रखने से 22 जून 2006 से छूट देता है :

- (i) भारतीय रिजर्व बैंक अधिनियम, 1934 की धारा 42 की उप-धारा (1) के स्पष्टीकरण के खंड (घ) (क्षेत्रीय ग्रामीण बैंकों के मामले में) तथा खंड (ङ) अनुसूचित राज्य सहकारी बैंकों के मामले में) के अंतर्गत परिकलित, भारत में बैंकिंग प्रणाली के प्रति देयताएं; तथा
- (ii) भारतीय समाशोधन निगम लिमिटेड (सीसीआईएल) के साथ संपार्श्विकृत उधार और ऋणदान संबंधी दायित्वों वाले लेनदेन।

[ग्राआरवि. आरएफ. सं. 6107/07.02.01/2005-2006]

वी. एस. दास, कार्यपालक निदेशक

New Delhi, the 22nd June, 2006

S.O. 3606.—Consequent upon the amendment to Sub-section (1) of Section 42 of the Reserve Bank of India Act, 1934 (2 of 1934), the statutory minimum Cash Reserve Ratio (CRR) requirement of 3 per cent of the total demand and time liabilities in respect of Scheduled State Co-operative Banks and Regional Rural Banks no longer exists with effect from June 22, 2006. Further, consequent upon the amendment to Sub-section (1) of Section 42 of the Reserve Bank of India Act, 1934 the Reserve Bank having regard to the needs of securing monetary stability in the country, can prescribe the Cash Reserve Ratio (CRR) for scheduled banks without any floor rate or ceiling rate. In terms of these powers, Reserve Bank of India has decided to continue with the status quo on the rate of CRR required to be maintained by Scheduled State Co-operative Banks and Regional Rural Banks at 5 per cent of their demand and time liabilities. In exercise of the powers conferred by Sub-section (7) of Section 42 of the Reserve Bank of India Act, 1934, the Reserve Bank of India hereby exempts every

Scheduled State Co-operative Banks/Regional Rural Bank from the maintenance of CRR at 5 per cent on the following liabilities with effect from June 22, 2006:

- (i) Liabilities to the banking system in India as computed under Clause (d) (in case of Regional Rural Bank) and (e) (in case of Scheduled State Co-operative Bank) of the Explanation to Sub-section (1) of Section 42 of the RBI Act, 1934; and
- (ii) Transactions in Collateralized Borrowing and Lending Obligation (CBLO) with Clearing Corporation of India Ltd. (CCIL).

[RPCD. RF. No. 6107/07.02.01/2005-2006]

V. S. DAS, Executive Director

वित्त मंत्रालय

(राजस्व विभाग)

मुख्य आयुक्त, सीमा शुल्क का कार्यालय-III

मुम्बई, 30 जून, 2006

क्रमांक 01/2006 सीमा शुल्क (एन.टी.)

का.आ. 3607.—अधिसूचना क्रमांक 33/94 सीमाशुल्क (एन.टी.) दिनांक 1-7-1994 एवं संशोधित अधिसूचना क्रमांक-122/2004 सीमा शुल्क (एन.टी.) दिनांक 25-10-2004 भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, एस. दत्त मजूमदार, मुख्य आयुक्त, सीमा शुल्क अंचल-III मैसर्स केन्द्रीय भण्डारण निगम (भारत सरकार का उपक्रम) द्वारा सार्वजनिक माल संग्रहण भण्डारगृह की स्थापना के उद्देश्य हेतु सीमाशुल्क अधिनियम, 1962 की धारा 9 के तहत गांव-फरसुंगी, तालुका-हवेली-जिला-पुणे, महाराष्ट्र को भण्डारण केन्द्र घोषित करता हूँ।

[फा. क्र. सं. एस/1-22(09)विविध/मु.आ.का.-III/06]

एस. दत्त मजूमदार, मुख्य आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

(OFFICE OF THE CHIEF COMMISSIONER OF CUSTOMS)

Mumbai, the 30th June, 2006

No. 01/2006-CUSTOMS (NT)

S.O. 3607.—In exercise of the powers conferred by Notification No. 33/94-Customs (NT) dated 1-7-1994 as amended by notification No. 122/2004-Cus (N.T.) dated 25-10-2004 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi. I, S. Dutt Majumder, Chief Commissioner of Customs Mumbai Zone-III hereby declare Village Fursungi, Taluka-Haveli, District-Pune, Maharashtra to be warehousing station under Section 9 of the Customs Act, 1962 for the purpose of setting up public bonded warehouse by M/s. Central Warehousing Corporation (A Government of India undertaking).

[F. No. S/1-22(09)Misc/CCO-III/06]

S. DUTT MAJUMDER, Chief Commissioner

(कार्यालय आयुक्त केन्द्रीय उत्पाद शुल्क आयुक्तालय)

जयपुर, 25 अगस्त, 2006

सं. 04-सीमा शुल्क (एन टी) 2006

(सीमा शुल्क)

का.आ. 3608.—सीमा शुल्क अधिनियम, 1962 की धारा 152 के खंड (ए) के तहत भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली की अधिसूचना संख्या 33/94-सीमा शुल्क (एन टी) दिनांक प्रथम जुलाई, 1994 के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मैं बी.एस.वी. मूर्ति, आयुक्त, केन्द्रीय उत्पाद शुल्क, जयपुर-द्वितीय एतद्वारा, शतप्रतिशत निर्यात संवर्धन ईकाई स्थापित करने के उद्देश्य से सीमा शुल्क अधिनियम, 1962 की धारा 9 के अन्तर्गत राजस्थान राज्य के आराजी संख्या 2820, 2821 एवं 2737 से 2740, बाड़ी हवाला रोड़, गांव बाड़ी तहसील गिरवा, जिला उदयपुर को भंडारण स्टेशन (वेयर हाउसिंग स्टेशन) घोषित करता हूँ।

[फा. सं. पंचम (ईओयू)30/जे.पी. II/26/2006]

बी. एस. वी. मूर्ति, आयुक्त

(OFFICE OF THE COMMISSIONER CENTRAL EXCISE)

Jaipur, the 25th August, 2006

No. 04-CUS(NT) 2006

(CUSTOMS)

S.O. 3608.—In exercise of the powers conferred by Notification No. 33/94-Customs (NT) dated the 1st July, 1994 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, issued under clause (a) of Section 152 of Customs Act 1962, I, B.S.V. Murthy, Commissioner of Central Excise Jaipur-II, hereby declare place Araji No. 2820, 2821 and 2737 to 2740, Badi-Hawala Road, Village Badi, Tehsil Girwa Distt. Udaipur (Raj) in the State of Rajasthan to be warehousing station under Section 9 of the Customs Act 1962 for the purpose of setting up 100% EOU.

[C.No. V(EOU)30/JP-II/26/2006]

B. S. V. MURTHY, Commissioner

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 30 अगस्त, 2006

(आयकर)

का.आ. 3609.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्रीय सरकार द्वारा आयकर नियमावली, 1962 के नियम 6 के साथ पाठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 'अन्य संस्था' की श्रेणी के अन्तर्गत दिनांक 1-4-2005 से दिनांक 31-3-2008 तक की अवधि के लिए "सर गंगा राम ट्रस्ट सोसायटी, ओल्ड राजेन्द्र नगर, नई दिल्ली" जो अंशतः अनुसंधान कार्य-कलापों में कार्यरत है, (और न कि अनुसंधान के लिए एक मात्र मौजूद 'वैज्ञानिक अनुसंधान संघ' के रूप में है), को निम्नलिखित शर्तों के अधीन अनुमोदित किया गया है :-

- (i) अनुमोदित संगठन अपने अनुसंधान कार्य-कलापों के लिए अलग खाते रखेगा।

(ii)

वित्तीय वर्षों के प्रत्येक वर्ष के लिए जिसके लिए यह अनुमोदन प्रदान किया जा रहा है, अनुमोदित संगठन अनुसंधान कार्य-कलापों के संबंध में लेखा परीक्षित आय एवं व्यय खाते की एक प्रति इसके क्षेत्राधिकार वाले आयकर आयुक्त/आयकर निदेशक (छूट) को आयकर विवरणी दाखिल करने की नियत तारीख को अथवा उससे पहले अथवा इस अधिसूचना की तारीख से 90 दिनों के अन्दर जो भी बाद में समाप्त हो, प्रस्तुत करेगा, जिसके लिए इसे आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत अनुमोदन प्रदान किया गया है।

(iii)

यह संगठन उपर्युक्त पैरा (ii) में संदर्भित आय एवं व्यय खाते के साथ लेखा परीक्षक से प्राप्त एक प्रमाणपत्र भी संलग्न करेगा :-

(क) जिसमें संगठन द्वारा वैज्ञानिक अनुसंधान के लिए प्राप्त की गई उस राशि का उल्लेख किया गया हो, जिसके लिए दानकर्ता धारा 35(1)(ii) के अन्तर्गत कटौती का दावा करने के लिए पात्र है।

(ख) जिसमें यह प्रमाणित किया गया हो कि किया गया व्यय वैज्ञानिक अनुसंधान के लिए ही था।

[अधिसूचना सं. 221/2006/फा. सं. 203/31/2006-आ.नि. II]

रेनु जौहरी, निदेशक (आयकर नि. II)

(CENTRAL BOARD OF DIRECT TAXES)

New Delhi, the 30th August, 2006

(INCOME-TAX)

S.O. 3609.—It is hereby notified for general information that the organisation Sir Ganga Ram Trust Society, Old Rajinder Nagar, New Delhi-110060 has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-Tax Act, 1961, read with Rule 6 of the Income tax Rules, 1962 for the period from 1-4-2005 to 31-3-2008 under the category 'Other Institution' partly engaged in research activities (and not as a 'Scientific Research Association' existing solely for research) subject to the following condition :-

(i)

The approved organization shall maintain separate accounts for its research activities.

(ii)

For each of the financial years for which this approval is being given, the approved organisation shall submit a copy of its audited Income & Expenditure account in respect of the research activities for which it has been approved under sub-section (1) of Section 35 of IT Act, 1961 to the Commissioner of Income Tax/Director of

Income Tax (Exemptions) having jurisdiction, on or before the due date of filing of return of income or within 90 days from the date of this notification, whichever expires later.

(iii) The approved organisation shall also enclose with the Income and Expenditure account referred to in paragraph (ii) above, a certificate from the auditor :—

(a) specifying the amount received by the organisation for scientific research in respect of which the donors are eligible to claim deduction under clause (ii) of sub-section (1) of Section 35.

(b) certifying that the expenditure incurred was for scientific research.

[Notification No. 221/2006/F. No. 203/31/2006-ITA-II]

RENU JAUHRI, Director (ITA-II)

(व्यय विभाग)

नई दिल्ली, 29 अगस्त, 2006

का.आ. 3610.—भविष्य निधि अधिनियम, 1925 (1925 का 9) की धारा 8 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निम्नलिखित सार्वजनिक संस्थान का नाम उक्त अधिनियम की अनुसूची में शामिल करती है, अर्थात् :—

“भारतीय नाभिकीय विद्युत निगम लि.”।

[सं. 4(2)—संस्था. V/2005(I)]

मनोज जोशी, विशेष कार्य अधिकारी (आई.सी.)

(Department of Expenditure)

New Delhi, the 29th August, 2006

S.O. 3610.—In exercise of the powers conferred by Sub-section (3) of Section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds to the Schedule to the said Act, the name of the following institution, namely :—

“Bhartiya Nabhikiya Vidyut Nigam Ltd.”.

[No. 4(2)-EV/2005(I)]

MANOJ JOSHI, Officer on Spl. Duty (IC)

नई दिल्ली, 29 अगस्त, 2006

का.आ. 3611.—भविष्य निधि अधिनियम, 1925 (1925 का 9) की धारा 8 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निदेश देती है कि उक्त अधिनियम के उपबंध (धारा 6 “क” को छोड़कर) उक्त अधिनियम की अनुसूची में विनिर्दिष्ट भारतीय नाभिकीय विद्युत निगम लि. के कर्मचारियों के लाभार्थ स्थापित भविष्य निधि पर भी लागू होंगे।

[सं. 4(2)—संस्था. वी/2005(II)]

मनोज जोशी, विशेष कार्य अधिकारी (आई.सी.)

New Delhi, the 29th August, 2006

S.O. 3611.—In exercise of the powers conferred by sub-section (2) of Section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act (except Section 6A) shall apply to the Provident Fund established for the benefit of the employees of the Bhartiya Nabhikiya Vidyut Nigam Ltd.

[No. 4(2)-EV/2005(II)]

MANOJ JOSHI, Officer on Spl. Duty (IC)

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 29 अगस्त, 2006

का.आ. 3612.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, घोषणा करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खंड (ग) के उपखंड (झ) के उपबंध उस सीमा तक इंडियन बैंक पर लागू नहीं होंगे, जहां तक डॉ. के. सी. चक्रवर्ती द्वारा लघु उद्योग प्रत्यय गारंटी निधि न्यास (सीजीटीएसआई) के निदेशक का पदभार ग्रहण करने से उनका संबंध है।

[फा. सं. 20/5/2004-बीओ-1]

जी. बी. सिंह, उप-सचिव

(Department of Economic Affairs)

(BANKING DIVISION)

New Delhi, the 29th August, 2006

S.O. 3612.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Indian Bank in so far as it relates to taking up directorship of Dr. K. C. Chakrabarty, on the Board of Credit Guarantee Fund Trust for Small Industries (CGTSI).

[F. No. 20/5/2004-BO-1]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 31 अगस्त, 2006

का.आ. 3613.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, घोषणा

करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खंड (ग) के उप-खंड (झ) के उपबंध उस सीमा तक देना बैंक पर लागू नहीं होंगे, जहां तक उनका संबंध श्री पी. एल. गैरोला द्वारा कृषि वित्त निगम (एफसी) लिमिटेड के बोर्ड में निदेशक का पदभार ग्रहण करने से है।

[फा. सं. 20/12/2005-बीओ-1]

जी. बी. सिंह, उप सचिव

New Delhi, the 31st August, 2006

S.O. 3613.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Dena Bank in so far as it relates to taking up directorship of Shri P. L. Gairola, on the Board of Agricultural Finance Corporation (AFC) Limited.

[F.No. 20/12/2005-BO. I]

G. B. SINGH, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

शुद्धिपत्र

नई दिल्ली, 31 अगस्त, 2006

का.आ. 3614.—इस मंत्रालय की दिनांक 21 अगस्त, 2006 की अधिसूचना सं. वी-11013/1/2005-एमई(नीति-1) के आंशिक संशोधन में भारतीय आयुर्विज्ञान परिषद् के सदस्य का नाम डॉ. पांडुरंग महादेवराव जादव के बजाय “डॉ. पांडुरंग माधवराव जादव” पढ़ा जाए।

[फा. सं. वी-11013/1/2005-एमई (नीति-1)]

के. वी. एस. राव, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

CORRIGENDUM

New Delhi, the 31st August, 2006

S.O. 3614.—In partial modification to this Ministry's Notification No. V-11013/1/2005-ME (Policy-I) dated 21st August, 2006, the name of the Member of Medical Council of India may be read as “Dr. Pandurang

Madhavrao Jhadav” instead of Dr. Pandurang Mahadevrao Jhadav.

[F.No. V-11013/1/2005-ME (Policy-I)]

K. V. S. RAO, Under Secy.

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

नई दिल्ली, 29 अगस्त, 2006

का.आ. 3615.—केन्द्रीय सरकार, राजभाषा (संच के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

महाप्रबंधक दूरसंचार, (मोबाइल सेवाएं) हिमाचल प्रदेश परिमंडल, भा.सं.नि.लि., शिमला

1. उपमंडल अभियंता (मोबाइल) कुल्लू (हि.प्र.)।

2. उपमंडल अभियंता (मोबाइल) सोलन (हि.प्र.)।

[फा. सं. ई-11016/1/2005-रा.भा.]

हरीश चन्द्र जयाल, संयुक्त सचिव

MINISTRY OF COMMUNICATION AND
INFORMATION TECHNOLOGY

(Department of Telecommunications)

New Delhi, the 29th August, 2006

S.O. 3615.—In pursuance of rule 10(4) of the Official Language (Use for official purpose of the Union), Rules 1976 (as amended-1987), the Central Government hereby notifies the following Offices under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications whereof more than 80 % of staff have acquired working knowledge of Hindi.

General Manager Telecom (Mobile Services)
Himachal Pradesh Circle, B.S.N.L., Shimla

1. Sub Divisional Engineer (Mobile) Kullu (H.P.).

2. Sub Divisional Engineer (Mobile) Solan (H.P.).

[F.No. E. 11016/1/2005 (O.L.)]

HARISH CHANDRA JAYAL, Jt. Secy.

वस्त्र मंत्रालय

नई दिल्ली, 30 अगस्त, 2006

का. आ. 3616.—राष्ट्रीय फैशन प्रौद्योगिकी संस्थान अधिनियम, 2006 (2006 का 28) की धारा 1 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा जनवरी 2007 की पहली तारीख को उपर्युक्त अधिनियम के लागू होने की तारीख नियत करती है।

[फा. सं. 1/12/2003-निर्यात-II]

सुदृप्त राय, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 30th August, 2006

S. O. 3616.—In exercise of of the powers conferred by sub-section (2) of Section-1 of the National Institute of Fashion Technology Act, 2006 (28 of 2006), the Central Government hereby appoints the 1st day of January, 2007, as the date on which the said Act shall come into force.

[F. No. 1/12/2003-Exports-II]

SUDRIPTA ROY, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 6 मई, 2006

का. आ. 3617.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस आईएस 10714 (भाग 25) : 2006/आईएसओ 128-25 : 1999 तकनीकी ड्राइंग - प्रस्तुतीकरण के सामान्य सिद्धांत भाग 25 पोट निर्माण ड्राइंग की रेखाएं	—	जून, 2006
2.	आईएस 10714 (भाग 30) : 2006/आईएसओ 128-30 : 2001 तकनीकी ड्राइंग-प्रस्तुतीकरण के सामान्य सिद्धांत भाग 30 दृश्यों के लिए आधारभूत मान्यताएं	—	मई, 2006
3.	आईएस 10714 (भाग 34) : 2006/आईएसओ - 128-34 : 2001 तकनीकी ड्राइंग-प्रस्तुतीकरण के सामान्य सिद्धांत भाग 34 इंजीनियरिंग ड्राइंग पर यांत्रिक विचार	—	जून, 2006

(1)	(2)	(3)	(4)
4.	आईएस 10714 (भाग 44) : 2006/आईएसओ - 128-44 : 2001 तकनीकी ड्राइंग-प्रस्तुतीकरण के सामान्य सिद्धांत भाग 44 यांत्रिक इंजीनियरिंग ड्राइंग के खण्ड	—	जून, 2006
5.	आईएस 15672 : 2006 कोरियोलीस मीटर द्वारा प्राकृतिक गैस अथवा फ्यूल्ड का प्रवाह मापन	—	जून, 2006
6.	आईएस 15673 : 2006 रोटरी पिस्टन मीटर द्वारा प्राकृतिक गैस का प्रवाह मापन	—	जून, 2006
7.	आईएस 15674 : 2006 अल्ट्रासानिक मीटर द्वारा प्राकृतिक गैस का प्रवाह मापन	—	जून, 2006
8.	आईएस 15675 : 2006/ ओरोफिस प्लेट मीटर द्वारा प्राकृतिक गैस अथवा फ्यूल्ड का प्रवाह मापन	—	जून, 2006
9.	आईएस 15676 : 2006 टर्बाइन मीटर द्वारा प्राकृतिक गैस का प्रवाह मापन	—	जून, 2006
10.	आईएस 15677 : 2006 प्राकृतिक गैस का मापन रीति संहिता	—	जून, 2006

इन भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : पीजीडी/जी-3.5]

पी. सी. जोशी, वैज्ञानिक 'ई' एवं प्रमुख (पीजीडी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 6th May, 2006

S. O. 3617.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule here to annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & year of the Indian Standards Established	No. & year of Indian Standards, if any, superseded by the New Indian Standard	Date of
(1)	(2)	(3)	(4)
1.	IS 10714(Part 25):2006/ISO 128-25:1999 Technical drawings-General principles of presentation Part 25 Line on shipbuilding drawings.	—	June, 2006

2.	IS 10714 (Part 30) : 2006/ISO 128-30 : 2001 Technical drawings-General principles of presentation Part 30 Basic conventions for views	—	May, 2006
3.	IS 10714 (Part 34) : 2006/ISO 128-34 : 2001 Technical drawings-General principles of presentation Part 34 views on mechanical Engineering drawings.	—	June, 2006
4.	IS 10714 (Part 44) : 2006/ISO 128-44 : 2001 Technical drawings-General principles of presentation Part 44 Sections on mechanical Engineering drawings.	—	June, 2006
5.	IS 15672 : 2006 Flow measurements of natural gas and fluids by coriolis meters	—	June, 2006
6.	IS 15673 : 2006 Flow measurement of natural gas by rotary piston meters	—	June, 2006
7.	IS 15674 : 2006 Flow measurement of natural gas by ultrasonic meter	—	June, 2006
8.	IS 15675 : 2006 Flow measurement of natural gas and fluids by orifice plate meters	—	June, 2006
9.	IS 15676 : 2006 Flow measurement of natural gas by turbine meters	—	June, 2006
10.	IS 15677 : 2006 Metering of natural gas —Code of Practice	—	June, 2006

Copy of these Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : PGD/G-3.5]

P. C. JOSHI, Scientist 'E' & Head (PGD)

नई दिल्ली, 6 जुलाई, 2006

का. आ. 3618.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	विस्थापित होने की तिथि	टिप्पण
(1)	(2)	(3)	(4)
1.	आईएस 8692 : 1978 मिलिंग कटर के लिए समानांतर शैक के आयाम	31 मई, 2006	आईएस 8692 : 1978 का दो भागों आईएस 8692 (भाग) :-

(4)

(1) 2004/आईएसओ 3338-1 : 1996
और आई एस 8692 (भाग 2) : 2004 में
विभाजित होना

[सं. : पीजीडी/जी-3.5]

पी. सी. जोशी, वैज्ञानिक 'ई' एवं प्रमुख (पीजीडी)

New Delhi, the 6th July, 2006

S. O. 3618.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule here to annexed has been cancelled and stands withdrawn :

SCHEDULE

Sl. No.	No. & year of the Indian Standards Established	Date of withdrawn	Remarks
(1)	(2)	(3)	(4)
1.	IS 8692 : 1978 Dimensions for parallel Shanks for milling cutters	31 May, 2006	IS 8692 : 1978 has been revised and Split into two parts as IS 8692 (Part I) : 2004/ISO 3338-1 : 1996 and IS 8692 (Part 2) : 2004.

[No. : PGD/G-3.5]

P. C. JOSHI, Scientist 'E' & Head (PGD)

नई दिल्ली, 25 अगस्त, 2006

का. आ. 3619.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक (कों) द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस 3087 : 2005 सामान्य प्रयोजनों के लिए लकड़ी और अन्य लिग्नोसैल्युलॉसिक सामग्री के पार्टिकल बोर्ड-विशिष्ट	आईएस 3087 : 1985	1 सितम्बर, 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 25th August, 2006

S. O. 3619.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & year of the Indian Standards Established	No. & year of Indian Standards, if any, superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 3087 : 2005 Particle boards of wood and other lignocelluloses materials (medium density) for general purposes Specification.	IS 3087 : 1985	01 September, 2006

Copy of this Standards is available for sale with the Bureau of Indian Standards. Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engineering)

नई दिल्ली, 25 अगस्त, 2006

का. आ. 3620.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (i) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	303 : 1989	संख्या 4 अगस्त 2005	01 अगस्त 2006

इस संशोधन की प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 25th August, 2006

S. O. 3620.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the amendment to the Indian Standard, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	303 : 1989	No. 4th August, 2005	1 August, 2006

Copy of this Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : CED/Gazette]

A. K. SAINI, Scientist 'F' & Head (Civil Engg.)

नई दिल्ली, 30 अगस्त, 2006

का. आ. 3621.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस 13428:2005 पैकेजबन्द प्राकृतिक मिनरल—विशिष्ट (दूसरा पुनरीक्षण)	आईएस 13428:1998 पैकेजबन्द प्राकृतिक मिनरल—विशिष्ट (पहला पुनरीक्षण)	1 जून, 2006

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : एफएडी/जी-128]

श्रीमती मधुलिका प्रकाश, वैज्ञानिक 'एफ' एवं प्रमुख (खाद्य एवं कृषि)

New Delhi, the 30th August, 2006

S. O. 3621.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & year of the Indian Standards Established	No. & year of the Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)	(4)
1.	IS 13428:2005 Packaged Natural mineral water—Specification (Second Revision)	IS 13428:2005 Packaged Natural mineral water-Specification (First Revision)	1 June, 2006

Copy of these Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : FAD/G-128]

Mrs. MADHULIKA PRAKASH, Scientist 'F' & Head (Food & Agriculture)

नई दिल्ली, 30 अगस्त, 2006

का. आ. 3622.—भारतीय मानक ब्यूरो नियम (प्रमाणन) विनियम, 1988, के विनियम 4 के उप-विनियम (5) के अनुसारण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं को लाईसेंस प्रदान किए गए हैं :

अनुसूची

क्रम संख्या	लाईसेंस संख्या	वैद्यता तिथि	पार्टी का नाम एवं पता (कारखाना)	उत्पाद	आई एस सं./ भाग/खण्ड वर्ष
(1)	(2)	(3)	(4)	(5)	(6)
1.	7619585	18-05-2007	अभिद्रान इंडिया 22, आदित्य इंडस्ट्रियल इस्टेट, चिंचोली बंदर (लिक) रोड, मालाड (पश्चिम) मुंबई-400064	विस्फोटो गैस पर्यावरणों के लिए बिजली के उपकरण— ज्वाला-सह आवरण “d”	2148:2004
2.	7623475	04-06-2007	जिगर इंडस्ट्रीज, 19/ए/24, दूसरा माला सकसरिया इण्डस्ट्रीयल इस्टेट एस.वी. रोड, चिंचोली मालाड (पश्चिम) मुंबई-400064	बायोनेट लैम्प होल्डर	1258:1987
3.	7623778	07-06-2007	लक्ष्मी पॉवर केबल्स प्रा.लि., प्लॉट नं. 142, पंचाल उद्योग नगर, भीमपुर, दमण-396210	वायवीय गुच्छित केबल-1100 वोल्ट तक और सहित की कार्यवारी वोल्टता के लिए	14255:1995

(1)	(2)	(3)	(4)	(5)	(6)
4.	7625176	11-06-2007	मार्को केबल्स प्रा. लि., प्लॉट नं. ए-55/56, एस.टी.आय. सी. ई. मूसलगाँव, सिन्नर-शिर्डी रोड, सिन्नर, नासिक-422103	वायवीय गुच्छित केबल-1100 वोल्ट तक और सहित की कार्यकारी वोल्टता के लिए	14255:1995
5.	7624881	13-06-2007	एम्को लिमिटेड (मीटर्स डिवीजन) संजय इंडस्ट्रियल इस्टेट, सर्वे नं. 57/2, बिल्डिंग नं. बी-3, वगधरा रोड, दादर दादर और नगर हवेली-396230	ए सी स्थैतिक ट्रांसफार्मर चालित वाट घंटे एवं ए आर-घंटे मीटर वर्ग, 0.2S तथा 0.5S	14697:1999
6.	7625782	13-06-2007	श्री साईनाथ फायबर्स प्रा. लि. सर्वे नं. 205/10(7), हिंगराज इंडस्ट्रियल इस्टेट, वाटर सप्लाय स्कीम के पास, दाभेल, दमण-396210	अनुप्रस्थ जुड़े हुए पॉलीइथालीन विद्युतरोधी पी वी सी आवरित केबल (भाग 1) 1100 वोल्ट और सहित की कार्यकारी वोल्टता के लिए	7098 (भाग-1): 1988
7.	7627079	19-06-2007	ब्राइट होम अप्लायंसेस 1/6, स्वीपर्स क्वार्टर्स, पुराना सिध्दार्थ नगर, रोड नं. 9, पानी की टंकी के सामने, एम. एन. स्कूल के पास, गोरेगाँव (पश्चिम) मुंबई 400102	बिजली के घरेलू खाद्य मिक्सर और (द्रवीपरक और ग्राइन्डर)	4250:1980
8.	7630573	22-06-2007	क्विक इंडस्ट्रियल सप्लायर्स, प्लॉट नं. 50/51, सर्वे नं. 66 ग्राफिका इण्डस्ट्रीज के सामने सुनिता डाई पार्ट्स के पीछे, सातिवली रोड, वालिव फाटा, वसई (पूर्व). जिला ठाणे 401208	प्रणीदक टाइप एसी संवाती पंखे	2312:1967

[सं. : सीएमडी-1/13:11]

एस. एम. भाटिया, उप महानिदेशक (प्रमाणन)

New Delhi, the 30th August, 2006

S. O. 3622.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licenses particulars of which are given below in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Validity Date	Name and address (factory) of the party	Product	IS No./Part/Sec. Year
(1)	(2)	(3)	(4)	(5)	(6)
1.	7619585	18-05-2007	Abhitron India 22, Aditya Industrial Estate, Chincholi Bunder (link) Road, Malad (W) Mumbai-400064	Flameproof enclosures for electrical apparatus	2148:2004

(1)	(2)	(3)	(4)	(5)	(6)
2.	7623475	04-06-2007	Jigar Industries, 19/A/46, Second Floor, Saksaria Industrial Estate, S. V. Road, Chincholi, Malad (West), Mumbai-400064	Bayonet lamp holders	1258 : 1987
3.	7623778	07-06-2007	Laxmi Power Cables Pvt. Ltd., Plot No. 142, Panchal Udyog Nagar, Bhimpore Daman-396210	Aerial bunched Cables for working voltages upto and in- cluding 1100 Vots—Specification	14255 : 1995
4.	7625176	11-06-2007	Marco Cables Pvt. Ltd., Plot No. A-55/56, S.T.I.C.E, Musalgaon, Sinnar, Shirdi Road, Sinnar, Nashik-422103	Aerial bunched Cables for working voltages upto and in- cluding 1100 Vots—Specification	14255:1995
5.	7624881	13-06-2007	EMCO Ltd. (Meters Division), Sanjay Industrial Estate, Survey No. 57/2, Building No. B-3, Vagdhara Road, Dadra and Nagar, Haveli-396230	ac Static Transformer operated Watt-hour and Var-hour Meters, Class 0.2 S and 0.5 S—Specifi- cation	14697-1999
6.	7625782	13-06-2007	Shree Sainath Fibres Pvt. Ltd., Survey No. 205/10(7), Hingraj Industrial Estate, Near Water Supply Scheme, Dhabel Daman-396210	Cross linked polyethylene insu- lated PVC sheathed cables : Part 1 for working voltage up to and including 1100	7098 (Part 1) : 1988
7.	7627079	19-06-2007	Bright Home Appliances, 1/6, Sweepers quarters, Old Siddharth Nagar, Road No. 9, Opp. Water Tank, Near M. N. School Goregaon (West) Mumbai-400104	Specification for Domestic Electric Food Mixers (Liquidi- zes and Grinders)	4250 : 1980
8.	7630573	22-06-2007	Quick Industrial Suppliers, Plot No. 50/51, Hissa No. 66, Opp : Graphica Industries, Behind Sunita Die Parts, Sativali Road, Valiv Phata Vasai (E) Dist Thane-401208	Propeller type ac ventilating fans	2312 : 1967

[No. : CMD-1/13 : 11]

S. M. BHATIA, DDG(M)

नई दिल्ली, 30 अगस्त, 2006

का.आ. 3623.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस 14254 (भाग 2) : 2006 प्रोग्रामन योग्य नियंत्रक भाग 2 उपस्कर संबंधी अपेक्षाएँ और परीक्षण (पहला पुनरीक्षण)	—	31 मई, 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं : ईटी 18/टी-95]

पी. के. मुखर्जी, वैज्ञ. 'एफ' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 30th August, 2006

S. O. 3623.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of Indian Standards, if any, superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 14254 (Part 2) : 2006 Programmable Controllers Part 2 Equipment Requirements and Tests (First Revision).	—	31 May, 2006

Copy of this Standards is available for sale with the Bureau of Indian Standards. Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : ET 18/T-95]

P. K. MUKHERJEE, Sc. 'F' & Head (Electro-technical)

नई दिल्ली, 30 अगस्त, 2006

का.आ. 3.24.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, को संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15654 : 2006 तेल और गैस पाइपलाइन के लिए पर्यवेक्षक नियंत्रण और आंकड़ा अर्जन (स्काडा) प्रणाली	—	अप्रैल, 2006
2.	आई एस 15655 : 2006 तेल और गैस पाइपलाइन के प्रचालन व अनुरक्षण के लिए दूरसंचार सुविधाएं	—	अप्रैल, 2006
3.	आई एस 14686 (भाग 1) : 2006/आई ई सी 60966-1: 1999 रेडियो बारम्बारता और समाक्ष केबल समुच्चय भाग-1 सामान्य अपेक्षाएँ और परीक्षण पद्धतियाँ (पहला पुनरीक्षण)	—	मई, 2006
4.	आई एस 15671 : 2006/आई एस ओ/आई ई सी 18045 : 2005 सूचना प्रौद्योगिकी-सुरक्षा तकनीक-सूचना प्रौद्योगिकी की सुरक्षा के लिये मूल्यांकन की विधियाँ	—	मई, 2006

इन भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं : एल टी डी/जी-75]

सुख बीर सिंह, प्रमुख (एल आई टी डी)

New Delhi, the 30th August, 2006

S. O. 3624.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and year of the Indian Standards Established	No. and year of Indian Standards, if any, superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 15654 : 2006 Supervisory Control and Data Acquisition (SCADA) System for Oil and Gas Pipeline	—	April, 2006

(1)	(2)	(3)	(4)
2.	IS 15655 : 2006 Telecommunication Facilities for Operation and Maintenance of Oil and Gas Pipeline	—	April, 2006
3.	IS 14686 (Part 1) : 2006/IEC 60966-1 : 1999 Radio Frequency and Coaxial Cable Assemblies ; Part 1 Generic Specification—general requirements and test methods (First Revision)	—	May, 2006
4.	IS 15671 : 2006/ISO/IEC 18045 : 2005 Information Technology—Security Techniques—Methodology for IT Security Evaluation	—	May, 2006

Copy of this Standards is available for sale with the Bureau of Indian Standards. Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : LTD/G-75]

SUKH BIR SINGH, Head (LITD)

नई दिल्ली, 31 अगस्त, 2006

का.आ. 3625.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	13779 : 1999 ए सी स्थैतिक वाट घंटा मीटर, वर्ग 1 और 2—विशिष्ट (पहला पुनरीक्षण)	4, जून 2006	1 सितम्बर, 2006

इस भारतीय संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : ईटी 13/टी-33]

पी. के. मुखर्जी, वैज्ञा. 'एफ' एवं प्रमुख (विद्युत तकनीकी)

New Delhi, the 31st August, 2006

S.O. 3625.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the amendment to the Indian Standard, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 13779 : 1999 ac Static Watthour Meters, Class 1 and 2—Specification (First Revision)	4, June, 2006	1 September, 2006

Copy of this Amendment are available with the Bureau of Indian Standards. Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : ET 13/T-33]

P. K. MUKHERJEE, Sc. 'F' & Head (Electro-technical)

नई दिल्ली, 31 अगस्त, 2006

का.आ. 3626.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस 4824 : 2006 टायरों के लिये बीड तार—विशिष्ट (दूसरा पुनरीक्षण)	आई एस 4824 : 1973	31 जुलाई, 2006

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : एमटीडी 4/टी-103]

एस. के. गुप्ता, वैज्ञा. 'एफ' एवं प्रमुख (एमटीडी)

New Delhi, the 31st August, 2006

S. O. 3626.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and year of the Indian Standards Established	No. and year of Indian Standards, if any, superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 4824 : 2006 Bead wire for tyres—Specification (Second Revision)	IS 4824 : 1973	31 July, 2006

Copy of this Standards is available for sale with the Bureau of Indian Standards. Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : MTD 4/T-103]

S. K. GUPTA, Scientist 'F' & Head (MTD)

नई दिल्ली, 31 अगस्त, 2006

का.आ. 3627.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक(कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 4984 : 1995	5, अगस्त 2006	24 अगस्त, 2006
2.	आई एस 15450 : 2004	1, अगस्त 2006	31 अगस्त, 2006

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. : सीईडी/राजपत्र]

डी. के. अग्रवाल, वैज्ञा. 'ई'—निदेशक (सिविल इंजीनियरी)

New Delhi, the 31st August, 2006

S.O. 3627.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 4984 : 1995	5, August 2006	24 August, 2006
2.	IS 15450 : 2004	1, August 2006	31 August, 2006

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. : CED/Gazette]

D. K. AGRAWAL, Sc. 'E'—Director (Civil Engg.)

नई दिल्ली, 1 सितम्बर, 2006

का. आ. 3628.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988, के विनियम 4 के उप विनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं को लाईसेंस प्रदान किए गए हैं :

अनुसूची

क्रम संख्या	लाईसेंस संख्या	वैधता तिथि	पार्टी का नाम एवं पता (कारखाना)	उत्पाद	आई एस सं./भाग/खण्ड वर्ष
(1)	(2)	(3)	(4)	(5)	(6)
1	7611670	24-04-2007	श्रीराम इंडस्ट्रीज, 36, गंगोत्री, तुंगारेश्वर इंडस्ट्रीयल काम्प्लेक्स नं 1, सातिवली, वसई (पूर्व), जिला थाने-401208	पम्प-पुनर्योजी स्वच्छ ठंडे पानी के लिए	8472 : 1998
2	7634076	16-07-2007	भारत अप्लायंसेस, बी/22, सराफ कासकर इंडस्ट्रीयल इस्टेट, एस. बी. रोड, ओशिवरा जोगेश्वरी (पश्चिम), मुंबई-400102	विद्युत इस्तरी	366 : 1991

(1)	(2)	(3)	(4)	(5)	(6)
3	7634177	18-07-2006	भारत अप्लायंसेस, बी/22, सराफ केसकर इंडस्ट्रीयल इस्टेट, एस. बी. रोड, ओशिवरा जोगेश्वरी (पश्चिम), मुंबई 400102	घरेलू समान और विद्युत साधनों की सुरक्षा भाग-2 विवरणात्मक अपेक्षाएं खंड 3 विद्युत इस्तरी	302 (भाग-2/ खंड-3) : 1992
4	7615880	16-05-2007	हिंदुस्थान मोटर मैनुफेक्चरिंग कंपनी, प्लॉट संख्या 53/2, सड़क नं 7, ओर्क मिल्स के पीछे, एम. आई. डी. सी. अंधेरी (पूर्व), मुम्बई-400093	विद्युत उपकरण हेतु धूल रूद्ध प्रज्वलनरोधी आवरण	11005 : 1984
5	7636585	23-07-2007	टेराकाम प्राइवेट लिमिटेड, 250, कुंडाईम इंडस्ट्रीयल इस्टेट, कुंडाईम, गोआ-403115	1100 वो. तक कार्यकारी वोल्टता के लिए पीवीसी रोधित (हैवी ड्यूटी) विद्युत केबल (भाग 1)	1554 (भाग 1) : 1988
6	7637587	26-07-2007	मॅकॉर्थम इण्डस्ट्रीज, सपना सिंथेटिक कंपाउंड, प्लॉट सं. 741/6, 8 और 9, रिंगनवाडा, दाभेल, दमण, दमण और दीव 396210	1100 वो. तक एवं सहित कार्यकारी वोल्टता के लिए पीवीसी रोधित केबल	694 : 1990
7	7632072	11-07-2007	अरूणोदय इंसुलेटिंग इंडस्ट्रीज, ग्राला सं. ए-7, अडके कम्पाउंड, पेपर मिल के सामने, सूर्य नगर पोलीस स्टेशन के पास, विक्रोली (पश्चिम), मुंबई-400083	विद्युत प्रयोजनों के लिए दाब सुग्राही आसंजक टेप-भाग 3: अलग-अलग सामग्री की अपेक्षाएं खण्ड 3 नान थर्मो सेटिंग सुग्राही सहित प्लास्टिकृत पी वी सी टेप	7809 (भाग 3/ खंड 1) : 1986
8	7636989	25-07-2007	खाईबर इंटरनेशनल कंपनी, 19, योगी इण्डस्ट्रीयल इस्टेट, राम मंदिर रोड, गोरेगांव (पश्चिम), मुंबई-400104	विद्युत प्रयोजनों के लिए दाब सुग्राही आसंजक टेप-भाग 3: अलग-अलग सामग्री की अपेक्षाएं खण्ड 3 नान थर्मो सेटिंग सुग्राही सहित प्लास्टिकृत पी वी सी टेप	7809 (भाग 3/ खंड 1) : 1986

[सं. : सी एम डी-1/13 : 11]

एस. एम. भाटिया, उप महानिदेशक (प्रमाणन)

New Delhi, the 1st September, 2006

S. O. 3628.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licenses particulars of which are given below in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Validity Date	Name and address (factory) of the Party	Product	IS No./Part/Sec. Year
1	2	3	4	5	6
1	7611670	27-04-2007	Shreeram Industries, 36, Gangotri, Tungareshwar Industrial Complex No. 1, Sativali, Vasai (East) Dist Thane-401208	Pumps—Regenerative or clear, cold water	8472 : 1998
2	7634076	16/07/2007	Bharat Appliances B/22, Saraf Kaskar Indl. Estate, S.V. Road, Oshiwara Jogeshwari (West) Mumbai-400102	Electric Iron	366 : 1991
3	7634177	18/07/2007	Bharat Appliances B/22, Saraf Kaskar Indl. Estate, S.V. Road, Oshiwara Jogeshwari (West) Mumbai-400102	Safety of household and similar electrical appliances: Part 2 Particular requirements, Section 3 Electric iron	302 (Part-2/Sec.-3) : 1992
4	7615880	16/05/2007	Hindustan Motor Mfg. Co., Plot No. 53/2, Street No. 7, behind Orkay Mills, MIDC Andheri (East) Mumbai-400093	Dust tight ignition proof enclosures of electrical equipment	11005 : 1984
5	7636585	23/07/2007	Teracom Private Ltd., 250, Kundaim Indl. Estate Kundaim Goa-403115	PVC insulated (heavy duty) electric cables : Part 1 for working voltages upto and including 1100 V	1554 (Part 1) : 1988
6	7637587	26/07/2007	Marcrotherm Industries, Sapna Synthetic Compound, Plot No. 741/6, 8 & 9, Ringanwada, Dabhel, Daman, Daman & Diu-396210	PVC insulated cables for working voltages upto and including 1100 V	694 : 1990
7	7632072	11/07/2007	Arunodaya Insulating Industries, Gala No. A-7, Adke Compound, Opp. Paper Mill, Near Surya Nagar Police Station, Vikhroli (West), Mumbai-400083	Specification for Pressure Sensitive Adhesive Insulating Tapes for Electrical Purposes—Part 3: Requirements for Individual Materials—Section 1 : Plasticized Polyvinylchloride Tapes with Non-thermosetting Adhesive	7809 (Part 3/Sec. 1) : 1986

1	2	3	4	5	6
8	7636989	25/07/2007	Khyber International Co., 19, Yogi Industrial Estate, Ram Mandir Road, Goregaon (West) Mumbai-400104	Specification for Pressure Sensitive Adhesive Insulating Tapes for Electrical Purposes—Part 3: Requirements for Individual Materials— Section 1 : Plasticized Polyvinylchloride Tapes with Non-thermosetting Adhesive	7809 (Part 3/ Sec. 1) : 1986

[No. : CMD-1/13 : 11]

S. M. BHATIA, Dy. Director General (Marks)

कोयला मंत्रालय

नई दिल्ली, 4 सितम्बर, 2006

का. आ. 3629.—केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे उपाबद्ध अनुसूची के स्तंभ 4 में विनिर्दिष्ट प्रत्येक व्यक्ति की उक्त अधिनियम के ऐसे उपबंधों के प्रयोजन के लिए जो नेशनल थर्मल पावर कारपोरेशन (एन.टी.पी.सी.) लिमिटेड, नई दिल्ली की अधिकारिता के भीतर आने वाले क्षेत्र की बाबत उसके स्तंभ (2) में की तत्स्थानी प्रविष्टि में उसके नाम के सामने विनिर्दिष्ट हैं, सक्षम प्राधिकारी नियुक्त करती है।

अनुसूची

क्रम सं.	अधिनियम की धारा	समनुदेशन की प्रकृति	सक्षम प्राधिकारी के रूप में नियुक्ति व्यक्तियों का पदनाम	सक्षम प्राधिकारी के रूप में नियुक्ति व्यक्ति का शासकीय पता
1	2	3	4	5
1	धारा 4 की उपधारा (3).	(क) पूर्वक्षेपण के लिए भूमि में प्रवेश करना और उसका सर्वेक्षण करना (ख) अवमृदा को खोदना या बोर करना (ग) ऐसे सभी कार्य करना, जो कोयले के पूर्वक्षेपण के लिए आवश्यक हों। (घ) ऐसी भूमि की सीमाएं उपवर्णित करना जिसमें पूर्वक्षेपण किया जाना प्रस्तावित है। (ड.) सीमाओं और लाइन चिन्हांकित करना। (च) जहां सर्वेक्षण पूरा न किया जा सकता हो और सीमा और लाइन चिन्हित न की जा सकती हो वहां किसी खड़ी फसल, बाड़ या जंगल के किसी भाग को काटना या साफ करना।	कार्यपालक निदेशक (प्रादेशिक), कार्यपालक निदेशक (कोयला खनन और कोयला धोवनशाला), महाप्रबंधक/अपर महा प्रबंधक/उप महा प्रबंधक, ज्येष्ठ प्रबंधक/ज्येष्ठ अधीक्षक, प्रबंधक/अधीक्षक, उप प्रबंधक/उप अधीक्षक, ज्येष्ठ इंजीनियर/ज्येष्ठ अधिकारी, इंजीनियर/अधिकारी, सहायक इंजीनियर/सहायक अधिकारी	नेशनल थर्मल पावर कारपोरेशन लिमिटेड, एन.टी.पी.सी. भवन, स्कोप कांप्लेक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003

1	2	3	4	5
2. धारा 6	कारित होने वाले संभावित नुकसान के मद्दे प्रतिकर को संदाय करना और केन्द्रीय सरकार को विवाद निर्दिष्ट करना ।	कार्यपालक निदेशक, (प्रादेशिक), कार्यपालक निदेशक, कार्यपालक निदेशक (कोयला खनन और कोयला धोवनाशाला), महाप्रबंधक/अपर महाप्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
3. धारा 8 की उप-धारा (2)	भूमि अर्जन के विरुद्ध आक्षेपों की सुनवाई करना और केन्द्रीय सरकार को रिपोर्ट प्रस्तुत करना ।	कार्यपालक निदेशक, (प्रादेशिक), कार्यपालक निदेशक, कार्यपालक निदेशक (कोयला खनन और कोयला धोवनशाला), महाप्रबंधक/अपर महा प्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
4. धारा 12	भूमि का कब्जा अभ्यर्पित करने के लिए व्यक्तियों को सूचना देना और उसका कब्जा लेना ।	कार्यपालक निदेशक, (प्रादेशिक), कार्यपालक निदेशक, कार्यपालक निदेशक (कोयला खनन और कोयला धोवनशाला), महाप्रबंधक/अपर महाप्रबंधक, उप महाप्रबंधक ज्येष्ठ प्रबंधक/ज्येष्ठ अधीक्षक, प्रबंधक/अधीक्षक, उप प्रबंधक/उप अधीक्षक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
5. धारा 13 की उप-धारा (6)	ऐसे नुकसान के लिए प्रतिकर का संदाय जो अधिनियम में कहीं भी उपबंधित नहीं है ।	कार्यपालक निदेशक, (प्रादेशिक), कार्यपालक निदेशक, कार्यपालक निदेशक, (कोयला खनन और कोयला धोवनशाला), महाप्रबंधक/अपर महाप्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
6. धारा 14 की उप-धारा (1)	किसी करार द्वारा नियत प्रतिकर का संदाय	कार्यपालक निदेशक, महाप्रबंधक, अपर महाप्रबंधक, उप महाप्रबंधक/ज्येष्ठ प्रबंधक/संपदा प्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
7. धारा 14 की उप-धारा (4)	प्रतिकर के संबंध में अधिकरण के समक्ष कथन करना	कार्यपालक निदेशक, महाप्रबंधक, अपर महाप्रबंधक, उप महाप्रबंधक, ज्येष्ठ प्रबंधक/संपदा प्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
8. धारा 16	अधिकरण के अधिनिर्णय पर ब्याज का संदाय	कार्यपालक निदेशक, महाप्रबंधक, अपर महाप्रबंधक, उप महाप्रबंधक, ज्येष्ठ प्रबंधक/संपदा प्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
9. धारा 17	प्रतिकर का संदाय	कार्यपालक निदेशक, महाप्रबंधक, अपर महाप्रबंधक, उप महाप्रबंधक, ज्येष्ठ प्रबंधक/संपदा प्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	

1	2	3	4	5
10. धारा 19	केन्द्रीय सरकार द्वारा प्रत्यायोजित शक्तियों और कर्तव्यों का प्रयोग करना	कार्यपालक निदेशक, कार्यपालक निदेशक (कोयला खनन और कोयला धोवनशाला), महाप्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी. पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
11. धारा 20 की उप-धारा (3)	केन्द्रीय सरकार द्वारा अपील की सुनवाई करना और अपने आदेश का निष्कर्ष देना।	निर्पालक निदेशक, (प्रादेशिक) कार्यपालक निदेशक, कार्यपालक निदेशक (कोयला खनन और कोयला धोवनशाला), महा-प्रबंधक, अपर महाप्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
12. धारा 21	जानकारी प्राप्त करने की शक्ति	कार्यपालक निदेशक, महाप्रबंधक, अपर महाप्रबंधक, उप महाप्रबंधक/ज्येष्ठ प्रबंधक/संपदा प्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	
13. धारा 22	किसी सम्पत्ति में प्रवेश करने और उसका निरीक्षण की शक्ति या किन्हीं अधिकारियों को शक्तियां प्रत्यायोजित करना।	प्रादेशिक कार्यपालक निदेशक, कार्यपालक निदेशक, कार्यपालक निदेशक (कोयला खनन और कोयला धोवनशाला), महाप्रबंधक अपर महाप्रबंधक	नेशनल थर्मल पावर कारपोरेशन लि. एन.टी.पी.सी. भवन, स्कोप कांप्लैक्स, 7, इंस्टीट्यूशनल एरिया, लोदी रोड, नई दिल्ली-110003	

[सं. 43015/7/2005/पीआरआई डब्ल्यू-1]

एम. शाहबुद्दीन, अवर सचिव

MINISTRY OF COAL.

New Delhi, the 4th September, 2006

S. O. 3629.—In exercise of the powers conferred by Section 3 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby appoint each of the persons specified in column 4 of the Schedule hereto annexed to be the competent authority for the purpose of such of the provisions of the said Act, as is specified against his name in the corresponding entry in column 2 thereof in respect of the areas falling within the jurisdiction of the NTPC Limited, New Delhi.

SCHEDULE

Sl. No.	Section of the Act	Nature of assignment	Designation of the persons appointed as competent authority	Official Address of the persons appointed as competent authority
1	2	3	4	5
1	Sub-section (3) of Section 4	(a) To enter upon and survey the land for prospecting. (b) To dig or bore into the sub-soil. (c) To do all acts necessary to prospect for coal (d) To set out the boundaries of the land in which prospecting is proposed to be done. (e) To mark such boundaries and line by placing marks.	Executive Director (Regional), Executive Directors, Executive Director (Coal Mining and Coal Washery), General Managers, Additional General Managers, Deputy General Managers, Senior Managers/Senior Superintendents, Managers/Superintendents, Deputy Managers/Deputy Superintendents, Senior Engineers/Senior Officers, Engineers/Officers, Assistant Engineers/Assistant Officers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.

1	2	3	4	5
		(f) Where survey cannot be completed and the boundaries and line marked, to cut down and clear away any part of standing crop, fence or jungle.		
2	Section 6	Payment of compensation on account of damage likely to be caused and referring dispute to Central Government.	Executive Director (Regional), Executive Directors, Executive Director (Coal Mining and Coal Washery), General Managers, Additional General Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
3	Sub-section (2) of Section 8	Hearing of objections against acquisition of land and submitting of report to Central Government.	Executive Director (Regional), Executive Directors, Executive Director (Coal Mining and Coal Washery), General Managers, Additional General Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
4	Section 12	Notice to persons to surrender Possession of land and take possession thereof.	Executive Director (Regional), Executive Directors, Executive Director (Coal Mining and Coal Washery), General Managers, Additional General Managers, Deputy General Managers, Senior Managers/Senior Superintendents, Managers/Superintendents, Deputy Managers/Deputy Superintendents.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
5.	Sub-section (6) of Section 13	Payment of compensation for damages not provided elsewhere in the Act	Executive Director (Regional), Executive Directors, Executive Director (Coal Mining and Coal Washery), General Managers, Additional General Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
6.	Sub-section (1) of Section 14	Payment of compensation fixed by agreement	Executive Directors, General Managers, Additional General Managers, Deputy General Managers, Senior Managers/Estate Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
7.	Sub-section (4) of Section 14	Statement before the Tribunal regarding the compensation	Executive Directors, General Managers, Additional General Managers, Deputy General Managers, Senior Managers/Estate Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
8.	Section 16	Payment of interest on award of the Tribunal	Executive Directors, General Managers, Additional General Managers, Deputy General Managers, Senior Managers/Estate Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
9.	Section 17	Payment of compensation	Executive Directors, General Managers, Additional General Managers, Deputy General Managers, Senior Managers/Estate Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
10.	Section 19	To exercise the powers and duties delegated by the Central Government	Executive Directors, Executive Director (Coal Mining and Coal Washery), General Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.

1	2	3	4	5
11.	Sub-section (3) of Section 20	Hearing of appeal by Central Government and the finding of its order.	Executive Director (Regional), Executive Directors, Executive Director (Coal Mining and Coal Washery), General Managers, Additional General Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
12.	Section 21	Powers to obtain Information	Executive Directors, General Managers, Additional General Managers, Deputy General Managers, Senior Manager/ Estate Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.
13.	Section 22	To enter and inspect any property or to delegate the powers to any officers.	Executive Director (Regional), Executive Directors, Executive Director (Coal Mining and Coal Washery), General Managers, Additional General Managers.	NTPC Limited, NTPC Bhawan, Scope Complex, 7, Institutional Area, Lodi Road, New Delhi-110003.

[No. 43015/7/2005/PRIW-I]

M. SHAHABUDEEN, Under Secy.

नई दिल्ली, 7 सितम्बर, 2006

का. आ. 3630.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि राजस्थान राज्य में विजयपुर-कोटा एवं स्पर पाइपलाईनों द्वारा प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाईन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाईन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उप-धारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती है, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाईन बिछाए जाने के संबंध में, सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, सी-6, फ्लैट नं. 201, सवाई जय सिंह राजमार्ग, बनीपार्क, जयपुर (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गाँव	सर्वे नं.	आर.ओ.यू. अर्जित करने के लिए क्षे. (हेक्ट. में)
1	2	3	4	5
कोटा	लाडपुरा	मोरपा	166	0.1780
			54	0.0840
			3	0.0300
			योग	0.2920

1	2	3	4	5
कोटा	लाडपुरा	रसुलपुर	246	0.1280
			247	0.0560
			135	0.0250
			136	0.0420
			137	0.0620
			योग	0.3130

[फा. सं. एल-14014/16/06-जी.पी. (भाग-II)]

एस. बी. मण्डल, अवर सचिव

New Delhi, the 7th September, 2006

S. O. 3630.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through Vijaipur-Kota and spur pipelines in the State of Rajasthan, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Competent Authority, GAIL (India) Limited, C-6, 201, Kamal Apartment, Sawai Jai Singh Highway, Banipark, Jaipur (Rajasthan).

SCHEDULE

District	Tahsil	Village	Survey No.	Area to be acquired for R.O.U. (in Hect.)
1	2	3	4	5
Kota	Ladpura	Morpa	166	0.1780
			54	0.0840
			3	0.0300
			Total	0.2920
Kota	Ladpura	Rasulpur	246	0.1280
			247	0.0560
			135	0.0250
			136	0.0420
			137	0.0620
			Total	0.3130

[F. No. L-14014/16/06-G.P. (Part-II)]

S. B. MANDAL, Under Secy.

नई दिल्ली, 7 सितम्बर, 2006

का. आ. 3631.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि राजस्थान राज्य में विजयपुर-कोटा एवं स्मर पाइपलाईनों द्वारा प्राकृतिक गैस के परिवहन के लिए गेल (इण्डिया) लिमिटेड द्वारा, एक पाइपलाईन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को उक्त पाइपलाईन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि उस भूमि में, जिसमें उक्त पाइपलाईन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से संलग्न अनुसूची में वर्णित है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको उक्त अधिनियम की धारा 3 की उप-धारा (1) के अधीन भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाईन बिछाए जाने के संबंध में सक्षम प्राधिकारी, गेल (इण्डिया) लिमिटेड, सी-6, फ्लैट नं. 201, सवाई जय सिंह राजमार्ग, बनीपार्क, जयपुर (राजस्थान) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

जिला	तहसील	गांव	सर्वे नं.	आर.ओ.यू. अर्जित करने के लिए क्षे. (हेक्ट. में)
1	2	3	4	5
बारां	अन्ता	काचरी	351	0.1752
			350	0.1041
			348	0.2112
			348/428	0.0192
			333/425	0.0288
			योग	0.5385
बारां	अन्ता	तामखेड़ा	233	0.0540
			255	0.1175
			253	0.1960
			263	0.2448
			264	0.0725
			269	0.0186
			270	0.2016
			282	0.1608
			285	0.0632
			286	0.0724
			योग	1.2014

[फा. सं. एल.-14014/16/06-जी.पी (भाग-II)]

एस. बी. मण्डल, अवर सचिव

New Delhi, the 7th September, 2006

S. O. 3631.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of natural gas through Vijaipur-Kota and spur pipelines in the State of Rajasthan, a pipeline should be laid by the GAIL (India) Limited;

And, whereas it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the Right of User in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the notification issued under sub-section (1) of Section 3 of the said Act, as published in the Gazette of India are made available to the general public, object in writing to the laying of the pipeline under the land to Competent Authority, GAIL (India) Limited, C-6, 201, Kamal Apartment, Sawai Jai Singh Highway, Banipark, Jaipur (Rajasthan).

SCHEDULE

District	Tahsil	Village	Survey No.	Area to be acquired for R.O.U. (in Hect.)
1	2	3	4	5
Baran	Anta	Kachri	351	0.1752
			350	0.1041
			348	0.2112
			348/428	0.0192
			333/425	0.0288
			Total	0.5385
Baran	Anta	Tamkheda	233	0.0540
			255	0.1175
			253	0.1960
			263	0.2448
			264	0.0725
			269	0.0186
			270	0.2016
			282	0.1608
			285	0.0632
			286	0.0724
Total			1.2014	

[F. No. L-14014/16/06-G.P. (Part-II)]

S. B. MANDAL, Under Secy.

नई दिल्ली, 7 सितम्बर, 2006

का. आ. 3632.—केन्द्रीय सरकार को लोक हित में यह आवश्यक प्रतीत होता है कि मध्यप्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा, एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में, जो इससे उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री लाल सिंह, सक्षम प्राधिकारी, मुम्बई-मांगल्या पाइपलाइन विस्तार परियोजना, भारत पेट्रोलियम कारपोरेशन लिमिटेड, प्लॉट नं. 590, सेक्टर 21 ए, फरीदाबाद-121001 (हरियाणा) को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : पलवल जिला : फरीदाबाद राज्य : हरियाणा

क्र.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	हरफली	14/7 8	0.1570

[फा. सं. आर-31015/01/2005-ओआर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 7th September, 2006

S. O. 3632.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Manglya (Indore) terminal in the State of Madhya Pradesh, an extension pipeline to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi should be laid by the Bharat Petroleum Corporation Limited;

And, whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto:

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962, (50 of 1962) the Central Government hereby declares its intention to acquire the right of user therein.

Any person interested in the land described in the said Schedule may, within twenty one days from the date

on which the copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Lal Singh, Competent Authority, Mumbai-Manglya Pipeline Extension Project, Bharat Petroleum Corporation Limited, Plot No. 590, Sector 21A, Faridabad-121001 (Haryana).

SCHEDULE

Tehsil : Palwal District : Faridabad State : Haryana

S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Harphali	14/7 8	0.1570

[F.No. R-31015/01/2005-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 7 सितम्बर, 2006

का. आ. 3633.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1359 तारीख 4 अप्रैल, 2006, जो भारत के राजपत्र तारीख 08 अप्रैल, 2006, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में मध्यप्रदेश राज्य में मांगल्या (इंदौर) संस्थापन से हरियाणा राज्य में पियाला तथा दिल्ली राष्ट्रीय राजधानी क्षेत्र में बिजवासन तक पेट्रोलियम उत्पादों के परिवहन के लिए मुम्बई-मांगल्या पाइपलाइन विस्तार परियोजना के माध्यम से भारत पेट्रोलियम कारपोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 11 जून, 2006 को उपलब्ध करा दी गई थी;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन, केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार ने, उक्त रिपोर्ट पर विचार करने के पश्चात्, और यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिये अपेक्षित है, उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाता है;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगों से मुक्त, भारत पेट्रोलियम कारपोरेशन लिमिटेड में निहित होगा।

अनुसूची

तहसील : कुम्हेर जिला : भरतपुर राज्य : राजस्थान			
क्र.	ग्राम का नाम	सर्वे नंबर	क्षेत्रफल हेक्टेयर में
1	2	3	4
1.	सान्तरूक	1679	0.0500
		1678	0.0748
		374	0.0430
		375	0.0720
		376	0.0140
		378	0.0140
		380	0.0570
		377	0.0792
		342	0.1152
		342/5503	0.0150
		341/5504	0.0650
		3616	0.0020
		2382	0.0080
		1680	0.0400
		341	0.0344
		447	0.1630
		954	0.0352
		946	0.0150
		945	0.0100
		2390	0.0100
		2351	0.0130
		2370	0.0280
		2378	0.0510
		2377	0.0180
		3644	0.0130
		3624	0.0181
		3615	0.0110

[फा. सं. आर-31015/81/2004-ओआर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 7th September, 2006

S. O. 3633.—Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O.1359, dated the 4th April, 2006, issued under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act) published in the Gazette of India dated the 8th April, 2006, the Central Government declared its intention to acquire the right of user in the land, specified in the Schedule appended to that notification for the purpose of laying an extension pipeline for transportation of petroleum products through Mumbai- Manglya Pipeline Extension Project from Manglya (Indore) terminal in the State of Madhya Pradesh to Piyala in the State of Haryana and Bijwasan in the NCT of Delhi by Bharat Petroleum Corporation Limited;

And whereas the copies of the said Gazette notification were made available to the public on the 11th June, 2006.

And whereas the competent authority has, under sub-section (1) of Section 6 of the said Act, submitted report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying the pipeline, has decided to acquire the right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 6 of the said Act, the Central Government hereby declares that the right of user in the land, specified in the Schedule, appended to this notification, is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of Section 6 of the said Act, the Central Government directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of the publication of this declaration, in Bharat Petroleum Corporation Limited, free from all encumbrances.

SCHEDULE

Tehsil : Kumher District : Bharatpur State : Rajasthan

S. No.	Name of Village	Survey No.	Area in Hectare
1	2	3	4
1.	Santruk	1679	0.0500
		1678	0.0748
		374	0.0430
		375	0.0720
		376	0.0140
		378	0.0140
		380	0.0570
		377	0.0792
		342	0.1152
		342/5503	0.0150
		341/5504	0.0650
		3616	0.0020
		2382	0.0080
		1680	0.0400
		341	0.0344
		447	0.1630
		954	0.0352
		946	0.0150
		945	0.0100
		2390	0.0100
		2351	0.0130
		2370	0.0280
		2378	0.0510
		2377	0.0180
		3644	0.0130
		3624	0.0181
		3615	0.0110

[F. No. R-31015/81/2004-OR-II]

A. GOSWAMI, Under Secy.

नई दिल्ली, 7 सितम्बर, 2006

का. आ. 3634.—केन्द्रीय सरकार को लोकहित में यह आवश्यक प्रतीत होता है कि महाराष्ट्र राज्य में लोनी (पुणे) से पकनी (सोलापुर) तक हजारवाडी के रास्ते पेट्रोलियम उत्पादों के परिवहन के लिए हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड द्वारा एक विस्तार पाइपलाइन बिछाई जानी चाहिए;

और केन्द्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से उपाबद्ध अनुसूची में वर्णित है, जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से जिसको इस अधिसूचना से युक्त भारत के राजपत्र की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के अर्जन के सम्बन्ध में श्री संजीव जाधव, सक्षम प्राधिकारी, मुम्बई-पुणे पाइपलाइन विस्तार परियोजना (लोनी से पकनी तक हजारवाडी के रास्ते), हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लिमिटेड, मेगा सेंटर, मगरपट्टा-एम व एन विंग, हादापसर- 411028 (पुणे जिला), महाराष्ट्र को लिखित रूप में आक्षेप भेज सकेगा।

अनुसूची

तहसील : पलुस जिला : सांगली राज्य : महाराष्ट्र

क्र. सं.	गांव का नाम	सर्वे नंबर	गट नंबर	उप-खण्ड संख्या	क्षेत्रफल		
					हेक्टर	एयर	वर्ग मीटर
1	2	3	4	5	6	7	8
1.	आंधली		736		00	00	80
			739		00	01	75
			711		00	01	36
			636		00	06	87
			577		00	02	10
			290		00	09	96
			214	1	00	09	21
			184	ब	00	00	58
			कुल	00	23	63	
2.	बांबवडे		1230		00	06	05
			286	1	00	00	24
				कुल	00	06	29
3.	हजारवाडी		77		00	27	90
			79		00	25	20
				कुल	00	53	10

[फा. सं. आर-31015/27/2004-ओआर-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 7th September, 2006

S. O. 3634.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Loni (pune) to Pakni (Solapur) via Hazarwadi in the State of Maharashtra, an extension pipeline should be laid by Hindustan Petroleum Corporation Limited;

And whereas it appears to the Central Government that for the purpose of laying such pipeline, it is necessary to acquire the right of user in land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of the Gazette of India containing this notification are made available to the public, object in writing to the acquisition of the right of user therein for laying of the pipeline under the land to Shri Sanjeev Jadhav, Competent Authority, Mumbai-Pune Pipeline Extension Project (from Loni to Pakni via Hazarwadi), Hindustan Petroleum Corporation Limited, Mega Center, Magarpatta-M&N Wing, Hadapsar-411028 (pune Deistrict), Maharashtra.

SCHEDULE

Tehsil : Palus			District : Sangli		State : Maharashtra		
S. No.	Name of Village	Survey No.	Gat No.	Sub-Division No.	Area		
					Hectare	Are	Sq. mt.
1	2	3	4	5	6	7	8
1.	Andhali		736		00	00	80
			739		00	01	75
			711		00	01	36
			636		00	06	87
			577		00	02	10
			290		00	09	96
			214	1	00	09	21
			184	B	00	00	58
Total					00	23	63
2.	Bambavade		1230		00	06	05
			286	1	00	00	24
Total					00	06	29
3.	Hazarwadi		77		00	27	90
			79		00	25	20
Total					00	53	10

[F. No. R-31015/27/2004-OR-II]

A. GOSWAMI, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 10 अगस्त, 2006

का. आ. 3635.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 45/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2006 को प्राप्त हुआ था।

[सं. एल-12012/79/2004-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 10th August, 2006.

S.O. 3635.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Bank of India and their workmen, which was received by the Central Government on 10-8-2006.

[No. L-12012/79/2004-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

Dated : 24th March, 2006

PRESENT:

Shri A. R. Siddiqui, Presiding Officer

C.R. No. 45/04

I PARTY

Shri Rama Rao Hitali,
Plot No. 10, Sagar,
Nrung Nagar,
Biddapur Colony,
Via-Hirapur,
Gulbarga-585103

II PARTY

The Zonal Manager,
Bank of India,
Sahyadri Shopping Centre,
Employment Exchange Chowk,
Solapur (Maharashtra)-413001

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/79/2004 dated 19th August 2004 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Bank of India in dismissing Shri Rama Rao Hitali, Clerk, Akluj

Branch, District Sholapur w.e.f. 10-10-1997 on the alleged charge of misconduct leveled against him vide charge sheet dated 4-2-1997 is legal and justified? If not, what relief the concerned workman is entitled to?"

2. The first party workman in his Claim Statement, challenged the order of dismissal dated 10-10-1997 passed against him by the management and also attacked the validity and legality of the enquiry proceedings conducted against him raising various contentions as to how the dismissal order was bad in law and as to how the proceedings of the enquiry were vitiated.

3. The management filed its Counter Statement meeting the various contentions raised by the first party with regard to the validity and legality of the dismissal order as well as the enquiry proceedings conducted against the first party and also at the very outset raised a question of law about the maintainability of the present reference before this tribunal and the jurisdiction of this tribunal to entertain the present reference.

4. It is the case of the management that the charge sheet dated 4-2-1997 alleging the misconduct committed by the first party was issued to him while he was working as a Clerk, Akluj Branch, Sholapur in Maharashtra and the enquiry was conducted against him and after the conclusion of the enquiry, enquiry report was submitted and the Regional Manager and Disciplinary Authority, Sholapur by order dated 10-10-1997 imposed the punishment of dismissal coming to the conclusion that the charges of misconduct leveled against the first party stand proved. Therefore, cause of action arose at Akluj Branch, Sholapur in Maharashtra, where the first party was working and where the enquiry was conducted and the order of disciplinary authority dismissing him from service was passed. In the result this court has no jurisdiction to entertain the claim statement of the first party as cause of action did not arise in the jurisdiction of this tribunal. In the result the management requested this tribunal to frame a Preliminary Issue on the point of jurisdiction and to pass necessary orders.

5. In the light of the aforesaid contention taken by the management, this tribunal on 23-6-2005 framed the following Preliminary Issue :

"Whether this tribunal has no jurisdiction interfering the present reference".

6. During the course of trial of the said issue, the management examined the enquiry officer as MW1 and got marked seven documents at Ex. M1 to M7. The statement of MW1 in his examination chief run as under :

"Presently I am working in advances department, Sadar Bazar branch, Solapur. During the year 1997, while I was working as a Manager, at Akluj branch, Solapur, I have conducted enquiry against the first

party Rama Rao Hitali, vide charge sheet at Ex. M1 issued to the first party while he was working at Akluj branch as a clerk.

Ex. M2 is the reply to the charge sheet admitting charges (Reply in two letters). Ex. M3 is my appointment letter appointing me as Enquiry Officer. One Mr. S. H. Abidi was the Presenting Officer. Letter written to the first party dispatching the charge sheet to the first party is Ex. M4. I held the enquiry proceedings on 10-5-1997 as per Ex. M5.

On reading over the charges the first party pleaded guilty and admitted the misconduct as per the charge sheet, he also gave a letter on 10-5-1997 admitting the guilt at Ex. M6.

31 documents were produced by the management and the first party did not dispute those documents, therefore, I have marked them as Ex. A1 to Ex. A31. Copies were given to the first party and he acknowledged the same in Ex. M6.

Ex. M7 is my Enquiry finding. I have given full and fair opportunity to the first party to defend himself in the enquiry.

As per the charge sheet the first party committed misconduct while he was working at Nagansur branch under Akkikot taluk, Solapur District. First party has signed Ex. M5."

7. During the course of cross-examination of MW1, no suggestion was made on behalf of the first party denying his statement in examination chief to the effect that as per the charge sheet first party committed misconduct while he was working at Nagansur branch under Akkikot Taluk, Solapur District. Moreover, the averments of the first party himself at para 2 of the Claim Statement would read to the effect that he reported duty at Nagansur branch of the management on 6-2-1991 and while working at Akluj branch he received the charge sheet in question with regard to the misconduct of misappropriation of the funds committed by him in respect of the customers of the Nagansur branch. The fact that the first party was working as Clerk, Akluj branch in Sholapur district of Maharashtra when he was served with the charge sheet and that enquiry against him was also conducted for the misconduct committed by him at the Akluj branch and that it is the Regional Manager and Disciplinary Authority, Sholapur passed the impugned dismissal order against the first party is yet to be denied and disputed by the first party. Learned counsel for the first party was not available when the matter was taken up for hearing as a last chance. The next important fact not to be lost sight of this tribunal is the very reference made by the government to this tribunal. As could be read from the reference points, the first party was working at Akluj branch, District, Sholapur when he was dismissed from service on 10-10-1997 for having committed charges of misconduct vide charge sheet dated 4-2-1997 at Nagansur branch of

Sholapur district of Maharashtra. Therefore, in the light of the above, the contention raised by the management that this tribunal has no territorial jurisdiction to entertain the present reference must prevail and accordingly the reference on hand is liable to be rejected for want of territorial jurisdiction. Hence the following award :

AWARD

The reference stands dismissed for want of territorial jurisdiction. However, the first party is at liberty to approach the proper authority and seek fresh reference of his dispute to the proper forum. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 24th March 2006).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 11 अगस्त, 2006

का. आ. 3636.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 18/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/264/2000-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 11th August, 2006

S.O. 3636.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workmen, which was received by the Central Government on 10-8-2006.

[No. L-22012/264/2000-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Md. Sarfaraz Khan, Presiding Officer

Reference No. 18 of 2001

PARTIES:

The Agent, Khandra Colliery of M/s. ECL, Ukhra, Burdwan.

Vs.

The General Secretary, Koyala Mazdoor Congress, Asansol, Burdwan.

REPRESENTATIVES:

For the management : Sri P. K. Das, Advocate.

For the union (Workman) : Sri Rakesh Kumar, General Secretary, Koyala Mazdoor Congress, Asansol.

Industry : Coal **State : West Bengal**

Dated the 29th March, 2006

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/264/2000-IR (C-II) dated 28-5-2001 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Khandra Colliery of M/s. Eastern Coalfields Limited in not providing employment to the dependent of Sh. Kunj Bihari Singh, Ex.-Pump Operator as per the provision of N. C. W. A. IV is legal and justified? If not, what relief the workman is entitled to?”

On having received the Order No. L-22012/264/2000-IR(C-II) dated 28-5-2001 in respect of the reference concerned from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute referred, a reference case No. 18 of 2001 was registered on 11-6-01/8-11-01 and accordingly an order was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and file their written statement along with the documents and a list of witnesses in support of their cases. Pursuant to the said notices issued Sri Rakesh Kumar, General Secretary of the union and Sri P. K. Das, Advocate on behalf of the management appeared in the court.

3. From perusal of the record it transpires that a written statement along with the Xerox copies of the documents have been filed on behalf of the union. It is further clear from the order sheets of the record that in spite of repeated several adjournments no written statement was filed on behalf of the management. On 27-1-06 also both the representatives of the parties were present but on that date also no step was taken from the side of the management for filing the written statement and as such the case was taken up for hearing.

4. The case of the union in brief compass as set forth in his written statement is that Kunj Bihari Singh, Tyndal was the permanent employee of the company whose duty was stopped from 18-3-94 being unfit for duty.

5. The main case of the union is that the delinquent incumbent had applied for his voluntary retirement on medical ground and for that he was called to appear before

the Medical Board and the Board declared him medically unfit for the job on 26-2-94 and accordingly his service was terminated on 2-3-94 vide letter No. BA/RD/A-II(28)/632 dated 2/3-3-94. The further case of the union is that as per the provisions of the wage agreements, his one dependent is entitled to get employment and as per this provision his son applied for providing employment on 21-5-94 but in the meantime D(P)ECL directed for not processing of employment cases of those who were declared medically unfit on 26-2-94 without giving any reason of justification.

6. It is also case of the union that this issue was discussed at various level but unfortunately no fruitful result came out and all efforts ended in fiasco. The delinquent employee Kunj Bihari Singh was declared medically unfit by the competent Medical Board and his services were terminated on the medical ground of unfitness. So the denial of the employment to the dependent is wrong illegal and unjustified. If the management had cancelled the report of the Medical Board held on 26-2-94 then all medical unfit workers should have been allowed to join duty and their termination order should have been cancelled but this was not done. Medically unfit workers were neither allowed to join their duty nor their dependent were provided employment which is claimed to be highly unjustified, illegal and utter violation of the Wage Agreement. The dependent of the delinquent employee is entitled to get employment according to the rules as well.

7. It is further clear from the record that the union has filed the Xerox copies of the official letters of correspondence between the authority of the management in course of the consideration of the case of the delinquent employee about the employment of the dependent of the medically unfit worker including the case of the delinquent employee of this reference which have been marked Ext. 1 to 8 on behalf of the worker (Union). Ext. 1 is the office order No. KC/P/2013(VR)/1845/94 dated 16-3-94 through which services of Kunj Bihari Singh was stopped w.e.f. 18-3-94 after declaring him medically unfit for duty on 22-2-94. This document is relevant one which go to prove that Sri Kunj Bihari Singh, Tyndal was declared medically unfit for duty by the physical disability Board on 26-2-94 and accordingly the duty of the said employee was stopped from 18-3-94. Besides this a direction was also given by the Agent, Khandra Colliery in this letter to the dependent of the employee to apply for employment as per company rule. There after the Agent, Khandra Colliery vide its letter No. KC/P/93/360/94 dated 17-5-94 issued a notice of direction to the employee/dependents to report to Screening Committee along with their witness and relevant documents, testimonials, identity card on 20-5-94 at 3.30 p.m. This documents is also very relevant to show that step for employment to the dependent of Kunj Bihari Singh was taken as per the rules of the company. Xerox copy of the letter of the Agent, Khandra Colliery bearing No. KC/P/2013(VR)/10010/94 dated 1/6-9-94 is Ext. III

through which Kunj Bihari Singh, Tyndal was informed that the Director(P), ECL, Sanctoria had directed the Agent, Khandra Colliery not to process the employment papers of the dependent of the medically unfit employee. This letter does not indicate any rhyme or reason for stopping the process of employment of the dependent of the medically unfit employee which is itself against the letter of spirit of the company rules and such arbitrary order can't be deemed to be legal, justified or proper in the eye of law and such prejudicial direction or order can not be held good to meet the ends of justice. Ext. 4 is the Xerox copy of the letter of G. M. Bankola Area addressing the Chief General Manager, Personnel, vide confidential letter No. GM/BA/P6IR/94/475 dated 13-12-94, recommending the claim of Kunj Bihari Singh. It is already mentioned therein that Sri Kunj Bihari Singh, Tyndal of Khandra Colliery was declared medically unfit in the Medical Board held on 26-2-94 and the result of that Board has been withheld, but recently one case has been considered because he had glaring debility. The G. M. had personally examined Shri Kunj Bihari Singh in his office and had found that he was suffering from Leprosy due to which fingers of his leg had become bent and was unable to walk even properly. The G. M. had requested the C. G. M. (Personnel), ECL, Sanctoria to consider the case of Kunj Bihari as it is a genuine case of debility. It is clear from the context of the letter that the request for consideration of this case was made on the ground of genuine and glaring case of debility as the case of similar nature was recently considered by the Management. So no disparity or discrimination in consideration of similar nature of cases should be made, if it so happens that will amount to be a prejudicial act, unjustified, illegal, against the spirit and provision of NCWA III, and utter violation of the principles of natural justice.

8. Ext. 5 is the Xerox copy of the letter No. GM/BA/PCIR/95/1272 dated 23-8-95 of the Chief General Manager addressed to General Manager (Personnel), ECL, Sanctoria through which an information was given regarding the employment of the dependent of the medically unfit employee Kunj Bihari Singh mentioning therein that "No communication has yet been received at this end." Likewise Ext. 6 is the Xerox copy of the letter of the Dy. CPM, Bankola Area addressed to the General Manager (Personnel), ECL, Sanctoria, regarding Minutes of the discussion held with the representatives of CMSI (CITU) dated 8-2-96 in the D(P)'s secret chamber in respect of Sri Kunj Bihari Singh, Tyndal where assurance for consideration of his case was given. Through this letter a request to look into the matter was made to the G.M.(P) for taking action for the employment of the dependent of Kunj Bihari Singh, Tyndal. Ext. 7 is the Xerox copy of the letter sent by the Personal Manager on 16-5-96 to the General Manager (Personnel), ECL, Sanctoria regarding Dependents employment under 9.4.3 of the NCWA in respect of Sri Kunj Bihari Singh, Ex-Tyndal of the Khandra Colliery annexing carbon copy

of medical unfitness report, copy of treatment papers application form and other papers requesting for kind perusal and necessary action.

9. Xerox copy of the treatment paper, Ext. 8 has also been filed which goes to show that it was a case of M/B Leprosy. Kunj Bihari Singh, Tyndal had attended the leprosy clinic for M. D. T. right from 5-3-92 to 26-12-94. This Ext. itself is sufficient proof of a glaring and genuine case of debility of Sri Kunj Bihari Singh who was unable to walk even properly as fingers of his leg had become bent.

10. During the course of argument the union's representative also filed the copy of provision 9.4.0 sub-clause I and IV of the National Coal Wage Agreement VI (Memorandum of Agreement). It is clearly provided therein about the employment to one dependent of a worker who is permanently disabled in his place. The disablement of the worker concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the Coal Company concerned. This provision is applicable in all respect in the case of the applicant at hand.

11. It is the admitted fact that Sri Kunj Bihari Singh, Ex-Tyndal was the permanent employee of the company who was suffering from acute and glaring case of leprosy for which his treatment was going on the Department of the Hospital of the company. It is also admitted case that his service was also terminated on medical ground and after appearing before the Physical disability Board on 26-2-94 he was declared unfit for duty and his duty was stopped from 18-3-94. Besides this the dependent of the said employee was directed to apply for employment as per company's rule. It is further admitted case that Indradeo Singh, dependent of Kunj Bihari Singh, Tyndal had also appeared before the Screening Committee on 21-5-94 but thereafter no step was taken by the management. There is clear cut provision of 9.4.3. under the National Coal Wage Agreement for the employment to one dependent of a worker who is permanently disabled in his place and clarification on operation of clause 9.4.3. of NCWA has been officially issued from the office of the Director (P & IR) vide letter dated 10th September, 1994 and 27th June, 1995. The direction has been clearly issued to look into the matter and in case the provision has not been implemented steps for implementation of the instruction contained in the Circular should be taken. I fail to understand as to why in spite of the clear cut provision an several circular issued in respect of clarification on operation of clause 9.4.3. of NCWA directing the concerned officials to adheres to the above instruction strictly the competent authority have withheld the case of one Kunj Bihari Singh regarding the employment of his dependent. Whereas some cases of similar nature in the similarly situated circumstance have been considered by the management after bypassing the case of Kunj Bihari Singh without assigning any reason which is apparently against spirit of natural justice.

12. In view of the above facts, circumstance, documentary evidence and the discussion made I am satisfied to hold that Sri Kunj Bihari Singh has got a genuine case of the claim for the employment of his dependent son in the suitable post under the provision of 9.4.3 of the National Coal Wages Agreement. Therefore, I direct that the management of Khandra Colliery of M/s. Eastern Coalfields Limited must take steps with regard to employment of the dependent of Sh. Kunj Bihari Singh in terms of 9.4.3 of the said Agreement. It is further clarified that such employment should be given strictly within the four corners of the aforesaid provision. The management shall take such decision within two months from the date of communication of this order. As such it is hereby

ORDERED

that let a "Award" be and the same is passed in favour of Sh. Kunj Bihari Singh, Ex Pump Operator in respect of the employment to his dependant. Let the copies of the award be sent to the Ministry of Labour, Govt. of India, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 17 अगस्त, 2006

का. आ. 3637.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलौर के पंचाट (संदर्भ संख्या 49/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2006 को प्राप्त हुआ था।

[सं. एल-12012/94/2004-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 17th August, 2006

S.O. 3637.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workmen, which was received by the Central Government on 11-8-2006.

[No. L-12012/94/2004-IR (B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated the 2nd August, 2006

PRESENT:

Shri A.R. Siddiqui, Presiding Officer

C.R. No. 49/2004

I PARTY:

Shri Sangappa Hanumanthappa
Nerabenchu,
Kumbar Oni, Hungund,
Bagalkot Dist., Karnataka State

II PARTY:

The Asstt. General Manager,
Syndicate Bank,
Zonal Office,
IRC, Gandhinagar,
Bangalore-560009

APPEARANCES:

I PARTY : Shri U. Abdul Jaleel,
Secretary, SBEU

II PARTY : Shri Ramesh Upadaya,
Advocate.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/94/2004-IR (B-II) dated 3rd September, 2004 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Syndicate Bank, Yerzari Branch, Bijapur District, Karnataka State in terminating the service of Shri Sangappa Hanumanthappa Nerabenchu, Ex. Attender, is justified? If not, what relief the applicant workman is entitled to?"

2. The case of the first party workman, as made out in the claim Statement, relevant for the purpose is that he had been working as a temporary Attender for about 20 years at various branches of Syndicate Bank in the District of Bijapur and that during February 2002 about 300 temporary attenders including himself (first party) from the waiting list maintained by the bank were absorbed into permanent service as attenders; that he was appointed to work at the Yarzari branch of the bank vide memorandum dated 9-2-2002 on probation for 3 months though generally probationary period for an attender should be six months. It was done for the reason that he had served under the management for a lengthy period of 20 years as a temporary attender; that those 300 temporary attenders were absorbed into the permanent services of the bank in the light of Madras High Court Order and there were still 100 vacancies of such nature to be filled up from among the part time employees; that almost all the 300 probationers' services have been confirmed with the bank except himself (first party), he being terminated from service before the completion of probationary period; that he reported for

duty on 18th February, 2002 at Yarzari branch but his probationary period was extended by another 3 months vide order dated 9-5-2002 and in the meanwhile he was served with another memorandum dated 13-2-2002 amending the original appointment order; that at no time he was informed that his performance was either not good nor up to the expectations of the management during the period from 1982 to 2002 when he was working as a temporary attender at Yarzari branch or at any other branch in the district of Bijapur; that he was offered the job taking into consideration his unblemished service and necessary certificates obtained during the year 1992 and he was always considered to be a fit person for the job of an attender having no adverse remarks recorded in his service record; that the ground on which his services have been terminated are flimsy saying that he has completed the age of 47 years and that he worked for one month during the period from 1987 to 2002 and that he had no experience in the work. Further saying that he is very slow and his work is not up to the expectations. In one of the monthly report of probationary attenders dated 18-3-2002 once again it is marked that he has completed 47 years of age, not up to the expectations having no grasping power and that he is poor in Kannada writing and reading so also in General Knowledge; that the observation that he is poor in Kannada writing and reading has been proved to be untrue during the conciliation before the ALC, Bellary; that the management did not agree to consider the case of the first party for his reinstatement on the above said flimsy and false grounds and therefore, his termination without giving fair and reasonable opportunity and for the aforesaid reasons is bad in law amounting to retrenchment under Section 2(oo) of the ID Act and so also tantamounts to illegal termination for violation of Section 25G & H of the ID Act as his services were terminated, though juniors to him were retained in the service. Therefore, he requested this tribunal to pass an award for his reinstatement confirming his services from retrospective date.

3. The management by its counter statement not disputing the fact that the first party was appointed as a Probationer Attender at Yarzari branch vide order dated 9-2-2002, amended by order dated 13-2-2002 putting him on probation for a period of 3 months and thereafter extending his period for another 3 months however, contended that the first party was categorically informed that his confirmation into the service of the bank depends on the satisfactory work and conduct but he failed to improve his performance despite the repeated advises much less by order dated 6-5-2002 informing that his work is not satisfactory and that he will be terminated from the service if he does not improve his performance. He was given opportunity to improve his performance extending his period of probation by 3 months by the above said order dated 9-5-2002; while disputing the fact that services of the first party were terminated after he had worked for 20

years, the management however, admitted that he was engaged on temporary basis in leave vacancy only in between 1982 and 1995. The management further contended that the legality of the order passed by it cannot be questioned as the first party was given sufficient time and opportunity to be sincere and show the improvement in his work by extending his probationary period for 3 months and therefore, his services were terminated by paying him one month salary in lieu of the notice in terms of clause 3 of the order dated 9-2-2002 and hence reference is liable to be dismissed.

4. During the course of trial, the management examined one witness as MW1 and got marked six documents at Ex. M1 to M6. His statement in examination chief is that first party was appointed as per order at Ex. M1 and his probationary period was extended by a letter dated 9-5-2002 marked at Ex. M2 and since he did not improve the performance his services were terminated by order at Ex. M3. No domestic enquiry was required as he was still to be confirmed on the completion of the probationary period. In his cross-examination he admitted that first party was among many of the temporary employees absorbed in service and that he was being engaged as a temporary Peon intermittently between 1987 and 1995. He was unaware of any explanation called for or any memo or notice given to the first party about his poor performance. He admitted, in a normal course probationary period will be six months for the post of attender. He was not sure if the first party is the only workman out of the 300 temporary workers appointed, being discharged their services.

5. The first party by way of rebuttal, filed his affidavit by way of examination chief repeating almost the very same averments made in his claim statement. In his cross-examination he denied the suggestion that his work and performance during the probationary period was not found satisfactory and that he did not improve his performance despite several opportunities given to him.

6. Ex. M1 is the appointment letter dated 9-2-2002 putting the first party on probation for a period of six months to be extended by another six months depending upon his performance. Ex. M2 is the memorandum dated 13-2-2002 amending the above said clause (1) of the appointment order putting the first party workman on probation only for a period of three months taking into consideration the services rendered by him on temporary basis for more than 3 months in the post of attender. Ex. M3 is the order dated 1-8-2002 terminating the services of the first party. Ex. M4 is the memorandum dated 13-2-2002 amending the original appointment order at Ex. M1 restricting the period of probation for three months. Ex. M5 is said to be a monthly report dated 18-2-2002 by the branch manager to the zonal office, Bangalore and Ex. M6 is the letter dated 18-3-2002 written by branch Manager of the Yarzari branch to the AGM, zonal office, Bangalore, regarding the performance of the first party. This is only

the oral and documentary evidence to be considered in this case.

7. Learned counsel for the management vehemently argued that going by the aforesaid report at Ex. M5, the letter at Ex. M6 and the letter at Ex. M2 whereunder probationary period of 3 months was extended by another 3 months, it becomes crystal clear that the performance of the first party was not upto the expectation despite giving him several opportunities to improve the same and therefore, his termination from services based on his poor performance was legally justified and correct and he cannot question the termination order passed against him during the extended period of probation.

8. Whereas, learned representative for the first party argued that undisputedly the first party had been working with the management bank between 1987 and 1995, at least, intermittently and there has been no adverse remarks in his service record for the services rendered by him in the said period and therefore, it cannot be said that his work and performance was found below the expectation during the period of six months of probation so as to discharge him from service. He submitted that the very fact that he was put on 3 months period of probation by order dated 13-2-2002 amending the original appointment order at Ex. M1 whereunder he was put on six months probationary period taking into consideration his past service must make it clear that his performance was quite satisfactory and he was very much suitable for the post of attender. He submitted that the monthly report dated 18-2-2002 at Ex. M5 passing remarks on the first party, first of all he has to be discarded on its face itself as first party reported for duty on 18-2-2002 itself and therefore, this fact will tell the tale upon the bona fides of the officers of the management bank in submitting such a false report against the first party. As far as the letter dated 18-3-2002 at Ex. M6 written by the Branch Manager, he contended that the very remarks passed on the observations made by the branch manager would speak to the fact that he has taken into consideration extraneous circumstances namely the age of the first party thereby, prejudicing the mind of the higher ups. He also referred to the order dated 9-5-2002 at Ex. M2 contending that period of probation was extended in a routine course without any adverse remarks against the first party. He contended that the various remarks passed by the Branch Manager in the aforesaid report and letter saying that his general knowledge is poor, that he is slow in work and that he is not taking up the work etc. should not have been the factors taken into consideration by the authorities concerned in not confirming the services of an attender, a Class IV employee and that on those grounds it cannot be said that his performance was poor liable to be removed from service. Therefore, as seen above, in order to prove that work and performance of the first party was not upto the expectations of the then branch Manager under whom he worked and that he was not found suitable to confirm

his services as an attender, the management mainly relied upon two documents namely, the so-called monthly report dated 18-2-2002 marked at Ex. M5 and the letter dated 18-3-2002 marked at Ex. M6 written by the Branch Manager to the AGM, Zonal Office, Bangalore, the observations rather the remarks made in the above said monthly report relevant for the purpose read that "the above employee is not upto our expectations in discharging his duties, he is also 47 years old now. He does not have grasping power, Kannada writing and reading—poor, general knowledge in basic level—poor".

9. The observations made in the aforesaid letter dated 18-3-2002 relevant for the purpose are "he is not having any experience in the work. He is very slow. His work is not upto our expectations".

10. First of all it is to be noted that the aforesaid observations/remarks have not been made to the knowledge of the first party. It is not the case of the management that copy of the said monthly report or the above said letter at Exs. M5 & M6 have been served upon the first party. It is now well settled principle of law and the principles of natural justice demand that whenever any adverse remark is made against the official concerned, he must be made aware of those remarks giving him an opportunity to put in his say on those remarks or in the case of the probationer to improve his performance. When that has not been done, such observations/remarks made behind the back of the first party, in my opinion, will not carry any weight in the eye of law. That apart, the then Branch Manager who sent the said monthly report to his higher ups and who passed remarks in the said monthly report and who sent the above said letter to his higher ups has not been examined before this tribunal to speak to the fact as to under what circumstances and under what assessment he has passed those remarks/observations. MW1 who is examined before this tribunal has not spoken to these two documents and undisputedly he was not the Branch Manager under whom the first party worked. Moreover, he has not spoken to the fact that performance of the first party was not upto mark or expectations as he was not the witness competent to speak to the said fact. Now coming to the report at Ex. M5 and the remarks passed therein about the performance of the first party, it was rightly argued for the first party that this report is liable to be discarded on its face itself having come into existence as on 18-2-2002 the date on which he actually joined the services of the management under the appointment letter dated 9-2-2002. It is yet to be explained by the management as to how, the then Branch Manager who wrote this monthly report could assess the performance of the first party on the very date he joined the services of the management. Therefore, this fact will lend support to the contentions of the first party that the management was predetermined to see that his services were dispensed with by hook and crook irrespective of his actual performance and the work

to be carried out by him as an attender. Otherwise, there cannot be any reason or any explanation coming forth on the part of the management as to how on earth, the Branch Manager could write the monthly report on 18-2-2002, passing the remarks/observations about the performance of the first party when he did not complete his service of even one day having joined the services on 18-2-2002 itself. Now coming to the letter at Ex. M6 it is not known what parameters have been applied by the then Branch Manager in testing the performance of the first party. As our common knowledge and experience goes, the main work of the first party as an attender will be of lifting of papers from one table to another and attending some miscellaneous manual work inviting no general knowledge, reading and writing Kannada language etc. As per the remarks passed in Ex. M6 as noted above, it is said that first party is not having any experience in the work and is very slow. It is not made known as to what type of experience a Class IV servant working as an attender was supposed to have and as to how he was slow in discharging his duties as an attender. This remark as argued for the first party has to be expunged for the simple reason that as per the very case of the management the first party had been working as a temporary attender though, intermittently, in between the year 1987 and 2002 i.e. for a period of about 13 years with the very same branch and other branches under the control and supervision of the officers of the management. If really the first party was not having the experience as expected by the authority and was very slow in carrying out his work, then he must not have been engaged as a temporary attender even on daily wage basis as in that case the Branch Manager concerned could have refused work to such a person not having proper experience and not doing the work as per his expectations. Therefore, when the first party was in the service of the management bank for about a period of 13 years doing the job of temporary attender, the above said remarks passed against him, as contended for the first party appears to be motivated and predetermined so as to get rid of his services. The last remark is that his work is not upto the expectation. It is not disclosed at what was the expectation of the then Branch Manager from the Class IV employee doing the job of attender. The remarks/observations as have made against the first party in my opinion were supposed to have been made as if the first party was carrying out a clerical work and not manual work. In the above said report at Ex. M5 and the letter at Ex. M6 there is also an emphasis made about the age of the first party saying that he was already 47 years old. It is not first of all understandable as to why the age of the first party brought in picture in assessing his performance particularly, when it is not the case of the management that he was physically handicapped or not keeping good health so as to carry out the job of the attender. This fact again goes to show, manager wanted that the first party gets removed from service. As far as the remark passed in the aforesaid report which remark is not found in the said letter that his

Kannada writing and reading was poor, it has come on record that during the conciliation proceedings the first party was called upon to read and write Kannada language and he did it to the satisfaction of the Conciliation Officer and this fact remains to be denied by the management. Now, therefore, for the aforesaid reasons both the report and the letter at Exts. M5 and M6, in my opinion, is not the evidence sufficient to throw light upon the fact that the performance of the first party was not upto the expectation and that he was not found suitable to carry out the job of the attender. The next circumstance which must weigh in favour of the first party is the fact that there was no memo or show cause notice issued to him, much less, he being brought notice of Exts. M5 and M6 calling upon him to improve his performance. It is not the case of the management that such a memo or notice was issued to the first party during his probationary period. MW1 in his cross-examination also stated that he was not aware of any explanation called for or any memo or notice given to the first party about his poor performance. The next important fact to be considered would be that absolutely there are no monthly reports supposed to be made by the authority concerned with regard to the performance of the first party during the probationary period except the one at Ex. M5 made and prepared on 18-2-2002 the date on which the first party joined the services. Therefore, when monthly reports itself were not prepared and maintained by the authority having regard to the performance of the first party, question of issuing him any memo or show cause notice calling him to show his performance never arose. There is also much substance in the contention raised by the first party that his period of probation initially was restricted to 3 months to be extended, by another three months keeping in view his past service of 3 months already rendered by him. This act of the management in putting the first party on probation only for a period of 3 months with a total period of 6 months taking into consideration his past service, which past service must have been as expected of an attender, then it is not understandable as to how the then Branch Manager could not find the performance of the first party as an attender upto his expectation, during the above said period of six months, he having worked with the management branches though intermittently during the aforesaid period of 13 years i.e. between 1987 and 2002. Moreover, if the management was not happy and satisfied with the work of the first party earlier to his appointment as a permanent peon, it must have adhered to the clause 20.8 of the Bipartite Settlement which prescribed a total period of one year for the purpose of probation in the case of the sub-staff such as an attender. Therefore, the management after having taken into consideration the past services of the first party curtailing the period of probation, cannot be justified in assessing the performance of the first party in a restricted period of six months going against the above said clause 20.8 of the Bipartite Settlement and then to get rid of the service of the first party on the ground that his performance was poor.

11. Therefore, keeping in view the facts and circumstances of the case and the discussion made above, I am of the considered opinion that the management was not legally justified in terminating the services of the first party on the alleged ground of his poor performance. In the result, the action of the management is liable to be set aside as illegal and void ab initio. Taking into consideration the past service of the first party with different branches of the management bank during the period 1987 to 2002 and that he has already undergone the probationary period of almost six months, there is, in my opinion, no further need to put the first party on probation for any further period and in the result he is entitled to be reinstated in service as a permanent peon/attender of the management bank.

12. As far as the relief of back wages is concerned, there is no evidence produced by the management to suggest that the first party has been gainfully employed being away from its service, therefore, he must have got full back wages from the date of termination till the date of his reinstatement, in normal course, with continuity of service and other consequential benefits. However, in the instant case, his services were terminated by order dated 1-8-2002 and from the date of reference made to this tribunal, it appears that he raised the dispute somewhere in the year 2004. Therefore, for this delayed period he cannot be granted any relief towards the back wages and he shall get the full back wages from the date of the reference to this tribunal till the date of his reinstatement and he is also given relief with regard to the continuity of service restricting the period for the above said purpose from the date of the reference till the date of reinstatement. Hence the following Award :

AWARD

The management is directed to reinstate the first party workman into its service as a permanent attender with full back wages from 1-9-2004 till the date of his reinstatement with continuity of service for the above said period only. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 2nd August, 2006).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 17 अगस्त, 2006

का. आ. 3638.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 240/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-8-2006 को प्राप्त हुआ था।

[सं. एल-22013/1/2006-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

26316106-6

New Delhi, the 17th August, 2006

S.O. 3638.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 240/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. SCCL and their workmen, which was received by the Central Government on 14-8-2006.

[No. L-22013/1/2006-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 13th day of July, 2006

Industrial Dispute L. C. I. D. No. 240/2004

BETWEEN:

Sri Edla Shekar,
R/o 21-2-152,
Markandeya Colony,
Bellampally,
Godavarikhani.

... Petitioner

AND

The General Manager,
M/s. Singareni Collieries Co. Ltd.,
Ramagundam-I Area,
Godavarikhani

... Respondent

APPEARANCES:

For the Petitioner : M/s. A. K. Jayaprakash Rao,
K. Srinivasa Rao, P. Sudha, T. Bal
Reddy, M. Govind and K. Ajay
Kumar, Advocates.

For the Respondent : Sri P. A. V. V. S. Sarma, Advocate.

AWARD

This is a petition filed by Edla Shekar, Ex. General Mazdoor in Respondent Company u/s. 2A (2) of Industrial Disputes Act, 1947 seeking the relief to declare the action of the Respondent in terminating the services of the Petitioner by the order dated 28-3-2004 as illegal and unjustified and for reinstatement with continuity of service with back wages.

2. This is a case taken under Sec. 2A(2) of the I. D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W. P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two others and numbered in this tribunal as LCID 240/2004 and notices issued to concerned parties.

3. The Petitioner submitted that he joined the services of the Respondent on 17-10-1986 as badli filler and subsequently promoted as general mazdoor in the year 1995. He discharged his duties to the satisfaction of the superiors without any blemished record till he was dismissed from service w.e.f. 31-3-2004. He further submitted that he was issued a chargesheet dated 19-2-2003 by the Respondent alleging, "Habitual Late Attendance or Habitual Absentee from the duty without sufficient Cause", which amounts to misconduct under Company's Standing Order No. 25.25. He submitted an explanation along with his medical certificates in support of his ill-health but the same was not considered and ordered an enquiry. During the enquiry he was not given reasonable opportunity and the enquiry was held in violation of principles of natural justice. The Petitioner further stated that he did not attend due to ill-health and then he filed a medical certificate issued by the Osmania General Hospital and the same was not considered and the Enquiry Officer held that the charges against the Petitioner are proved on some assumptions and presumptions. The Disciplinary Authority without properly appraising the material on record decided to impose punishment of dismissal without taking into consideration of the past service of the Petitioner and the punishment imposed is disproportionate to the gravity of the charge.

4. The Respondent filed a counter and denied the averments made in the petition and pleaded that petition is not maintainable. It is further submitted that the Petitioner remained absent during the year 2002 and put in only 4 days of attendance. As such a chargesheet dated 19-2-2003 under Company's Standing Orders was issued. The Petitioner submitted his explanation dated 26-3-2003 stating that during the period from 9-1-2002 to 24-10-2002 he could not attend duty due to ill-health and taken treatment at Osmania Hospital. But he did not produce any certificate to that effect. However, the Petitioner did not inform the cause of his absence to his superiors or taken prior permission or sanction of the leave. It is further stated that if the Petitioner is suffering from ill-health and informed the Respondent he would have been referred to Osmania General Hospital for further treatment if it is found necessary. The Respondent have established chain of Hospitals in all its areas and it is mandatory under the Mines Act/Regulations to maintain the hospitals by qualified medical practitioners and the said hospital authorities referred the cases of a complicated disease to the hospitals outside its purview like Osmania General Hospital, NIMS and Gandhi Hospital. The Petitioner having knowledge about the medical facilities, did not avail the same. The Petitioner did not file any certificate issued by

the Osmania General Hospital along with his explanation to the charges. An Enquiry was ordered and the Enquiry Officer issued notices to the Petitioner advising him to attend the enquiry. Accordingly, the Petitioner attended and participated in the enquiry and the enquiry was held following the principles of natural justice giving full opportunity to the Petitioner. It is further submitted that the Petitioner was in the habit of absenting himself and his previous attendance was very poor. It is further submitted that after submitting explanation to the chargesheet assured that he will attend duty regularly in future. He was counselled on 9-6-2003 before his family members, colleagues and union representatives and officers. The Petitioner gave an undertaking and assured that he shall work not below 22 musters per month in future 3 months i.e., from 10-6-2003 to 9-9-2003. But his attendance was five days in June, 2003 (From 10-6-2003) and July, 19 days and in August 4 days. The Respondent justified in dismissing the Petitioner and the punishment is commensurate with the gravity of the charges.

5. This tribunal has decided the preliminary issue regarding the validity of domestic enquiry after hearing both the parties and held that the domestic enquiry conducted by the Respondent is valid vide order dated 24-3-2005.

6. Arguments u/s 11A of the Industrial Disputes Act, 1947 heard on both sides.

7. The Learned Counsel for the Petitioner contended that the Petitioner could not attend duty on account of illness and that the Petitioner has taken treatment in the Osmania General Hospital, Hyderabad and the certificate dated 24-10-2002 was not considered by the Respondent Management.

8. On the other hand, the Learned Counsel for the Respondent contended that the Petitioner has not submitted the medical certificate along with his first explanation and further contended that Petitioner has admitted charges and requested for taking a lenient view and further contended that if the Petitioner is really sick, could have reported sick in the Respondent hospitals and medical certificate submitted by the Petitioner does not disclose that he was treated as inpatient in the Osmania General Hospital. The certificate is only filed at the later stage and the Petitioner could not establish that was really sick and could not attend his duties by producing satisfactory evidence during the enquiry and further contended that the Enquiry Officer has held that the charges are proved by duly conducting the enquiry giving reasonable opportunity to the Petitioner. In spite of the admission on the part of the Petitioner the Enquiry Officer has examined the witnesses and considered the documents and given reasons for his conclusions.

9. It is not in dispute that the Respondent Management issued chargesheet dated 19-2-2003 and the Petitioner

submitted his explanation dated 26-3-2003 in respect of the chargesheet admitting that he did not attend duty from 9-1-2002 to 24-10-2002 on account of his ill-health and that he has taken treatment in Osmania General Hospital and requested to drop proceedings. The Respondent not satisfied with the explanation has ordered an enquiry by appointing an Enquiry Officer. The Petitioner has given an undertaking dated 9-6-2003 assuring that he will be regular in his duty. The Enquiry Officer has conducted enquiry by duly giving notice to the Petitioner to participate in the enquiry proceedings on 16-7-2003. During the enquiry the statements of Sri T. R. K. Reddy, Pay-sheet clerk was examined. The Petitioner was also examined during the enquiry where he admitted that he was absented from duty. The Enquiry Officer has submitted his Enquiry Report to the Disciplinary Authority concluding that the charges are proved. The Disciplinary Authority issued show cause notice to the Petitioner asking him to submit his explanation in respect of the Enquiry Report and the Petitioner has submitted his explanation to the show cause notice dated 21-11-2003 reporting sick at Osmania General Hospital from 9-1-2002 to 24-10-2002 enclosing copy of the medical certificate. On considering the explanation the Petitioner was issued dismissal notice dated 28-3-2004.

10. On considering the proceedings of the Enquiry Officer it is evident that the Petitioner has admitted that he could not attend the duty. The charge against the Petitioner is that he has absented himself without sanction of the leave and attended only 4 days during the entire year 2002.

11. In view of the charges it is for the Petitioner to show that he could not attend to his duties on the ground of his illness. Admittedly it is not the case of the Petitioner that he reported sick at the Respondent's hospital. The medical certificate filed by the Petitioner discloses that it was given by the Residential Medical Officer, O. P., Osmania General Hospital, Hyderabad. The certificate was given for the purpose of recommending for granting medical leave from 9-1-2002 to 24-10-2002. It is not the case of the Petitioner that he was treated as in-patient in the hospital. It is the medical certificate cum fitness certificate and it was issued to show that the Petitioner is fit for duty on 25-10-2002, the Petitioner could not substantiate his plea during the enquiry that he was sick and could not attend to his duties and no satisfactory evidence was produced before the Enquiry Officer. On the other hand, he admitted the charges in his explanation as well as in the statement given before the Enquiry Officer. It appears that copy of the medical certificate was filed at the time of explanation to the show cause notice given by the Disciplinary Authority. The Disciplinary Authority has not satisfied with the medical certificate and imposed punishment of dismissal.

12. No doubt, this tribunal has got power to differ with the conclusions arrived at by the Management, but its power has to be exercised only on considering the

material on record. This tribunal has to satisfy that the material on record is sufficient for the Disciplinary Authority to come to the conclusion regarding the finding on the charges and further, the punishment is in proportion to the gravity of charges. The Enquiry Officer has recorded the statements of witnesses and considered the evidence on record and concluded that the charges against the Petitioner are proved. The Disciplinary Authority also on considering enquiry report and the explanation submitted by the Petitioner has concurred with the conclusions of the Enquiry Officer by giving reasons. It should be noted that strict rules of evidence are not applicable to the domestic enquiry. On considering the entire material, I do not see any ground to interfere with the findings of the Disciplinary Authority and conclusions arrived at by the Management based on the material on record. The Petitioner could not establish that on account of his serious illness he is unable to attend the duty. It should be noted that the Petitioner has not chosen to report before the hospitals under the Respondent Management where the workers were given facility for treatment as well as referring the workers to specialized treatment to other hospitals. The conduct on the part of the Petitioner that he was not maintaining regular attendance in the previous years and also he has not maintained sufficient musters for a period of 3 months after giving undertaking during the counselling has weighed the Disciplinary Authority for imposing the punishment of dismissal.

13. Regarding the punishment of dismissal the Learned Counsel for the Petitioner submitted that the punishment is disproportionate to the gravity of the charges. In view of the habitual absence of the Petitioner, I do not see any sufficient ground to interfere with the punishment imposed by the Respondent Management. I hold that the punishment is commensurate with the gravity of the charges. In the result, I hold that the Petitioner is not entitled for any relief and the petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 13th day of July, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 17 अगस्त, 2006

का. आ. 3639.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी.ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, अजमेर के पंचाट (संदर्भ संख्या 4/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2006 को प्राप्त हुआ था।

[सं. एल-17012/14/2000-आई आर (बी-II)]
सी. गंगाधरन, अवर सचिव

New Delhi, the 17th August, 2006

S.O. 3639.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2001) of the Industrial Tribunal, Ajmer as shown in the Annexure, in the industrial dispute between the management of LIC of India and their workmen, which was received by the Central Government on 11-8-2006.

[No. L-17012/14/2000-IR (B-II)]
C. GANGADHARAN, Under Secy.

अनुबंध

न्यायालय श्रम एवं औद्योगिक न्यायाधिकरण, अजमेर (राज.)

पीठासीन अधिकारी : श्री जी.एस.शेखावत, आर एच जे एस

प्रकरण संख्या-सी आई टी आर 04/01

(रेफरेंस नं. एल-17012/14/2000 दिनांक 11-8-2000)

अशोक कुमार पुत्र श्री के. चरण
म. नं. 747/29 पुराने मंदिर के पीछे,
मेयो कॉलेज, लिंक रोड, अजमेर (राज.) ... प्राथी

बनाम

दी सीनियर डिवीजनल मैनेजर,
एल.आई.सी. ऑफ इंडिया,
डिवीजनल आफिस जीवन प्रकाश,
रानाडे मार्ग, अजमेर ... अप्राथी

उपस्थित : श्री बी.एल. सेवरिया, अधिवक्ता, प्राथी।

: श्री कृष्णावतार, अधिवक्ता, अप्राथी।

दिनांक : 14-7-2006

अंवाई

केंद्र सरकार द्वारा प्रेषित विवाद निम्न प्रकार है :

"Whether the action of Sr. Divisional Manager, Life Insurance Corporation of India, Ajmer in terminating the services of Sh. Ashok Kumar S/o Sh. Kalicharan Ex. Chowkidar w.e.f. 30-8-92 is legal and justified. If

not what relief the concerned workman is entitled to ?"

नोटिस के उपरांत उभयपक्ष उपस्थित आये। प्राथी ने क्लेम के विवरण में अंकित किया है कि नियोजन कार्यालय द्वारा प्रेषित नाम के आधार पर प्रतिपक्षी द्वारा पत्र दि. 8-8-88 के माध्यम से साक्षात्कार हेतु दि. 17-8-88 को आमंत्रित कर प्राथी को चतुर्थ श्रेणी कर्मचारी के पद पर 430 रु. मूल वेतन और निगम के नियमानुसार देय अन्य भत्तों पर मासिक दर पर 85 दिन की अवधि हेतु नियुक्त किया जिसमें अन्य शर्तों के आलावा कार्यभार संभालने से 85 दिन की अवधि पूर्ण होते ही प्राथी की सेवायें समाप्त हो जाने तथा सेवासमाप्ति हेतु कोई नोटिस नहीं दिये जाने की मुख्य शर्त थी। प्राथी ने दि. 19-8-88 को अपना कार्यभार ग्रहण कर 11-11-88 तक निरंतर 85 दिन चतुर्थ श्रेणी कर्मचारी के रूप में कार्य किया तदुपरांत 22-2-90 के पत्र द्वारा पुनः 2-3-90 को साक्षात्कार के लिये आमंत्रित कर सफल होने पर मौखिक आदेश से प्राथी को काम पर रखा और प्राथी ने निर्देशानुसार कार्य किया तदुपरांत 30-4-90 पत्र के माध्यम से पानी पिलाने वाले के कार्य हेतु आमंत्रित कर मौखिक आदेश से रखा। तदुपरांत प्राथी को अस्थायी चौकीदार के पद पर मौखिक आदेशानुसार 13-8-91 से दि. 30-8-92 तक की समयावधि में कुल 384 दिन प्राथी से काम लिया। अगस्त 91 में 19 दिन, सितंबर 91 में 30 दिन, अक्टूबर 91 में 31 दिन, नवंबर 91 में 30 दिन, दिसंबर 91 और जनवरी 92 में क्रमशः 31, 31 दिन, फरवरी 92 में 28 दिन, मार्च, मई, जुलाई, अगस्त 92 में क्रमशः 31-31 दिन, अप्रैल और जून 92 में क्रमशः 30-30 दिन कुल 384 दिन कार्य लिया। प्राथी ने उक्त अवधि में अच्छा और संतोषप्रद कार्य किया, प्राथी के विरुद्ध कभी शिकायत प्राप्त नहीं हुई। प्रतिपक्षी ने बिना किसी नोटिस, वेतन और क्षतिपूर्ति के मौखिक आदेश से 30-8-92 से बिना धारा 25एफ की पालना किये सेवा से पृथक् कर दिया। किसी प्रकार की वरिष्ठता सूची नहीं बनायी और इस प्रकार धारा 25 जी का उल्लंघन किया है। प्राथी से कनिष्ठ राजीव सैमुअल व महेंद्र सिंह, आमोद नामक श्रमिक स्थाई घोषित होकर पदोन्नति किये जा चुके हैं। प्राथी की सेवा समाप्ति के पश्चात् अन्य श्रमिक प्राथी के स्थान पर रखे गये और प्राथी को कोई सूचना नहीं दी। इस प्रकार धारा 25 एच का उल्लंघन किया गया है। प्राथी को कोई रोजगार उपलब्ध नहीं हुआ। अंत में सेवामुक्ति को अवैध घोषित कर गत वेतन भत्तों सहित पुनः स्थापित करने की प्रार्थना की गयी है।

प्रतिपक्षी ने क्लेम के उत्तर में अंकित किया है कि प्राथी को सन् 1988 में निश्चित समयावधि के लिए संविदा के तौर पर नियुक्ति दी थी। समयावधि समाप्त होते ही प्राथी की सेवायें स्वतः ही समाप्त हो गयी। दि. 2-3-90 को अस्थायी अथवा दैनिक वेतन पर नियुक्ति हेतु पैनाल तैयार करने के लिए साक्षात्कार हेतु आमंत्रित किया गया था न कि स्थाई नियुक्ति हेतु प्राथी ने 13-8-91 से 31-7-92 तक कुल 217 दिन निश्चित समयावधि के लिए संविदा के अंतर्गत कार्य किया जिसका भुगतान वाऊचर के जरिये किया गया था। प्राथी नियमित कर्मचारी नहीं रहा। इस प्रकार यह छटनी की परिभाषा में नहीं आता है। पूर्व में इसी संबंध में एक दीवानी वाद 88/96 प्राथी ने सिविल न्यायालय कनिष्ठ खंड उत्तर, अजमेर में प्रस्तुत किया था जो दि. 29-9-2000 को निरस्त हो गया।

प्रार्थी ने अपने क्लेम की संपुष्टि में स्वयं का शपथ पत्र प्रस्तुत कर प्रतिपक्षी करवाया है। किंतु कोई प्रलेखीय साक्ष्य प्रस्तुत नहीं की। प्रतिपक्षी की ओर से लक्ष्मीचंद रंगनानी का शपथ पत्र प्रस्तुत कर प्रतिपक्षी करवाया, प्रलेखीय साक्ष्य में प्रदर्श एम-1 से एम-9 प्रलेखों की प्रतियां प्रदर्शित करवाकर प्रस्तुत की।

उभयपक्ष का श्रवण किया, पत्रावली का आवलोकन किया। प्रतिपक्षी द्वारा प्रस्तुत दृष्टांत 2003 लैब आई सी 574 का ससम्मान अध्ययन किया।

जहां तक प्रार्थी द्वारा सेवामुक्ति की दि. 30-8-92 से गत एक कैलेंडर वर्ष में 240 दिन कार्य करने के प्रश्न का संबंध है, प्रार्थी का अभिवचन है कि उसने 13-8-91 से 30-8-92 तक कुल 384 दिन कार्य किया है। इस बिंदु को सिद्ध करने का भार प्रार्थी पर है। प्रार्थी ने इस संबंध में एक दीवानी वाद 88/96 सिविल न्यायाधीश (क.ख) उत्तर, अजमेर के समक्ष प्रस्तुत किया जिसमें उसने सेवामुक्ति से पूर्व दि. 13-8-91 से 30-8-92 तक कुल 220 दिन कार्य करना स्वीकार किया है। इस संबंध में उक्त वाद में विवादक क्रम सं. 2 बनाया गया और गुण-दोषों के आधार पर यह विवादक प्रार्थी के पक्ष में निर्णीत किया गया। इस प्रकार स्वयं प्रार्थी ने 220 दिन कार्य करना सिविल वाद में स्वीकार किया है। जिसमें से अगस्त 91 के 19 दिन कम करने पर यह संख्या 201 दिन रह जाती है। इस प्रकार स्पष्ट है कि प्रार्थी की स्वीकारोक्ति के अनुसार भी उसने कुल 201 दिन गत वर्ष में कार्य किया है। प्रतिपक्षी ने जो वाकचर भुगतान के संबंध में जो प्रस्तुत किया है। उनके अनुसार भी प्रार्थी ने 13-8-91 से 217 दिन अर्थात् गत कैलेंडर वर्ष में 198 दिन ही कार्य किया है। प्रतिपक्षी की ओर से उक्त वाकचर प्रार्थी के प्रार्थना पत्र पर प्रस्तुत किये गये हैं। जिनसे प्रार्थी को भुगतान किया गया है। इस प्रकार स्पष्ट है कि प्रार्थी ने गत कैलेंडर वर्ष में 240 दिन कार्य नहीं किया। धारा 25 जी और एच के उल्लंघन के संबंध में प्रार्थी ने कोई साक्ष्य प्रस्तुत नहीं की। ऐसी स्थिति में प्रार्थी का शपथ पत्र अविश्वसनीय है। इसके विपरीत प्रतिपक्षी के साक्षी का शपथ पत्र प्रलेखों से पुष्टि होने के कारण और प्रार्थी के स्वीकारोक्ति के कारण विश्वसनीय है। प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

आदेश

फलतः प्रस्तुत विवाद का उत्तर इस प्रकार से दिया जाता है कि सीनियर डिवीजनल मैनेजर, लाईफ इश्योरेंस कॉरपोरेशन ऑफ इंडिया, अजमेर द्वारा श्री अशोक कुमार पुत्र कालीचरण चौकीदार की दि. 30-8-92 से सेवा समाप्त करना उचित एवं वैध है, प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

जी.एस. शेखावत, न्यायाधीश

नई दिल्ली, 17 अगस्त, 2006

का. आ. 3640.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 5/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-8-2006 को प्राप्त हुआ था।

[सं. एल-12011/114/1999-आई आर (बी-II)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 17th August, 2006

S.O. 3640.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 5/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the management of Vijaya Bank and their workmen, which was received by the Central Government on 11-8-2006.

[No. L-12011/114/1999-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 1st August 2006

PRESENT

Shri A. R. Siddiqui, Presiding Officer

C.R. No. 5/2000

I PARTY

The Secretary,
Vijaya Bank
Employees Federation,
18-22, Bylappa Building,
Cubbonpet Main Road,
Bangalore-560 002

II PARTY

The Regional Manager,
Vijaya Bank,
Head Office,
41/2 M.G. Road,
Trinity Circle,
Mangalore-560 001

APPEARANCES

1ST PARTY : Shri V. G. Bhanu Prakash,
Advocate.

2ND PARTY : Shri B. C. Prabhakar Advocate.

AWARD

I. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12011/114/99/IR(B-II) dated 31st December, 1999 for adjudication on the following schedule :

SCHEDULE

"Whether the management of M/s. Vijaya Bank is justified in terminating Shri K.S. Kantharaj, former temporary Peon? If not, to what relief the workman is entitled to?"

2. The case of the first party workman as made out in the claim statement, briefly, stated is that he worked with the management bank as a Peon continuously for a period of 335 days from 25-9-1996 to 30-9-1997 and he was being paid the salary as applicable to the post of Peon as per the Bipartite Settlement, however, he was stopped from working from the month of October 1997 without any notice and without any cogent reason and his representation to take him back to the post was not considered. Therefore, the action of the management in terminating his services was against the principles of natural justice and totally opposed to law and that he was entitled to be regularized in service as per the decisions of Supreme Court as well as various High Courts and therefore, he prayed to pass an award reinstating him in service with full back wages and other consequential benefits.

The management by its counter statement not disputing the fact that first party was being engaged as temporary peon between 25-9-1996 to 17-9-1997 as the regular Peon Shri K.C. Varadaraju working in the branch was placed under suspension from 24-9-1996 onwards for the gross misconduct committed by him, however contended that engagement of the first party was purely on temporary basis in terms of Bipartite Settlement and Sastry and Desai Award which provided for such an engagement keeping in view the exigencies of work or to clear the increased work in the branch and therefore, the first party cannot claim regularisation of his services nor he is entitled for reinstatement as purpose of his engagement came to an end as soon as permanent vacancy was filled up, otherwise. Therefore, the management contended that there was no illegality committed by it in stopping the first party workmen from work from 30th October 1997 onwards having paid him the salary for the said month. The management also contended that its action in doing so does not amount to termination much less illegal retrenchment.

3. During, the course of trial, the management filed an affidavit of one Mr. D. Ranjan Shetty, the branch Manager of Ravandur Branch, reiterating the averments made in the Counter Statement. In his cross examination he deposed to the fact that on the basis of the available records of the bank the first party worked between 25-9-1996 and 17-9-1997 in place of a regular Peon but he was unable to say whether said suspended Peon was taken back to duty. He denied the suggestion that the first party worked for a period of more than 300 days continuously during the year 1996-97.

4. The first party by way of rebuttal, filed his affidavit by way of examination chief and got marked 11 salary certificates issued to him at Ex.W1 series in his further examination chief. In his cross examination he admitted that he was working during the aforesaid period from 24-9-1996 onwards in place of said Mr. Varadaraju

who was placed under suspension from the above said date onwards. He was taken as a temporary peon by the bank manager. It was elicited from him that he has got his name registered with the Employment Exchange but his name was not sponsored by the employment exchange. In his last sentence he admitted that after about 15 days of the bank discontinuing his engagement, a regular peon was posted there.

5. Therefore, in the light of the above, the only point to be considered would be :

(1) "Whether the first party worked continuously for a period of 240 days and more in a 12 calendar months immediately preceding the date of refusal of work to him by the management";

(2) "If so, the termination of the services of the first party attracted the provisions of Section 2(oo) read with Section 25F of the ID Act and that non compliance of Section 25F of the ID Act by the management was bad in law?"

6. Learned counsel for the first party in his argument repeated the above said averments made in the Claim Statement and relied upon pay slips at Ex.W1 series, statement of WW1 and the very admissions made by the management by way of counter statement and in the affidavit of its witness about the engagement of the first party during the aforesaid period. He submitted that since the first party worked continuously for a period of 240 days and more during the said period, he fulfilled the requirements of Section 25B of the ID Act and therefore, refusal of work to the first party amounts to retrenchment as per Section 2(oo) of the ID Act and tantamount to illegal termination for want of compliance of Section 25F of the ID Act.

7. Learned counsel for the management in his argument however, submitted that the only mistake committed by the management in dispensing the services of the first party was in not paying him the retrenchment compensation amount and the salary in lieu of notice period as provided under Section 25F of the ID Act and that mistake can be corrected by this tribunal in awarding the reasonable compensation to meet the ends of justice as the first party cannot be reinstated in service since he worked purely on temporary basis for a limited purpose and for a limited period.

8. As seen above, with regard to the fact that the first party worked with the management bank right from 25-9-1996 till 17-9-1997 and that he was also paid salary for the month of October 1997, has been admitted by the management in the counter statement, in the affidavit of the management witness and so also there was no cross examination to first party workman on behalf of the management disputing the said fact. That apart, the first party as noted above, has produced 11 pay slips running from the month of October 1996 to September 1997 lending

support to his contention that he was being paid salary during the said period as applicable to the post of permanent peon. The genuineness and correctness of these pay slips has not been disputed by the management. Therefore, when we proceed on the assumption that the first party worked during the above said period, that too, in place of a permanent peon, there cannot be any difficulty in coming to the conclusion that he worked continuously for a period of 240 days and more in 12 calendar months preceding, immediately, the date on which he was refused work by the management. The contention of the management that he worked during the said period intermittently is liable to be discarded on its face itself keeping in view the above said salary slips making payment of salary to the first party on monthly basis and in view of the fact that he worked in place of a permanent peon. Therefore, as argued for the first party he had fulfilled the requirements of Section 25B of the ID Act and in the result the action of the management in refusing work to the first party amounts to retrenchment as defined under Section 2(oo) of the ID Act and since the management admittedly did not comply with the provisions of Section 25F of the ID Act, it tantamounts to illegal termination liable to be set aside as not sustainable in the eye of law.

9. Since the action of the management is held to be illegal and void ab initio, the normal course the workman will be entitled to the relief of reinstatement. However, keeping in view the fact admitted by the first party himself that his services were being taken by the management in place of the permanent employee placed under suspension and that regular peon has been posted to the post held by him after 15 days of the discontinuation of his services and the fact that his engagement was purely on temporary basis much less for limited purpose and for limited period, it will not be advisable to reinstate the workman into the post he was holding on temporary basis. The only proper and reasonable relief therefore, in my opinion will be the payment of compensation in lump sum. As to what compensation amount is to be awarded to him, the management was supposed to press into service any oral or documentary evidence to suggest that first party has been gainfully employed during the period he was away from its services. No such evidence is forthcoming as statement of MW1 is conspicuously silent on the said point much less the counter statement filed by the management. Similar is the case with the first party as neither in his claim statement nor in his affidavit before this tribunal he made out a case that he has not been gainfully employed after his disengagement. In his cross examination however, an attempt was made on the part of the management to get some information from his mouth as to what he has been doing subsequent to his disengagement and to that first party stated that he has been earning his livelihood working as a Coolie at his native place from 1-10-1997 onwards getting daily wages of Rs. 15. He denied the suggestion

that he was getting more wages and was giving false evidence. The suggestion on the part of the management that he must have been earning more wages cannot be said to be unreasonable keeping in view the demand of daily wage workers and their daily wages not being less than Rs. 100 per day to our common knowledge. Therefore, keeping in view the latches both on the part of the management and on the part of the first party on the point of gainful employment or otherwise, taking into consideration, that the first party has been working and earning his livelihood on daily wage basis, his last drawn wages of Rs. 3000 and odd monthly and the delay on the part of the first party in raising the dispute after a gap of 2 years from the date of his disengagement and not losing sight of the fact that services of the first party workman were being engaged purely on temporary basis to his knowledge liable to be terminated as soon as the vacancy was filled up, it appears to me that ends of justice will be met if the first party is paid in lump sum a compensation amount of Rs. 1,50,000 in lieu of his reinstatement, back wages and other consequential benefits as against his full and final settlement of the claim against the management. Hence following award is passed :

AWARD

The management is directed to pay a sum of Rs. 1,50,000 in lump sum as a compensation to the first party in lieu of full and final settlement of his claim against it within six months from the date of publication of this award, failing which the amount shall carry interest at the rate of 10 per cent per annum till its realization. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 1st August 2006).

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3641.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापट्टनम पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचाट (संदर्भ संख्या 67/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-34011/15/2001-आई आर (विविध)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3641.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the

Industrial Dispute between the employers in relation to the Management of Visakhapatnam Port Trust and their workmen which was received by the Central Government on 17-8-2006.

[No. L-34011/15/2001-IR (M)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT

SHRI T. RAMACHANDRA REDDY, Presiding Officer

Dated the 13th day of July, 2006

INDUSTRIAL DISPUTE No. 67/2004

[Old I.T.I.D.(C) No. 38/2002 transferred from Industrial
Tribunal-cum-Labour Court, Visakhapatnam]

Between :

The General Secretary,
Port & Dock Employees Association,
Rama Padma Nialayam,
14-25-32A, Dandu Bazar,
Maharanipet,
Visakhapatnam ... Petitioner/Union

AND

The Chairman,
Visakhapatnam Port Trust,
Visakhapatnam-35 ... Respondent

APPEARANCES

For the Petitioner : M/s. M. Ramdas & D.J. Murthy,
Advocates.

For the Respondent : M/s. B.S.S.N. Raju, M. Santha &
Santha Ratnama, Advocates.

AWARD

This is a reference made by the Government of India, Ministry of Labour by its Order No. L-34011/15/2001-IR(M) dated 19-4-2002 under Section 10(1)(d) of the I.D. Act, 1947 for adjudication of the industrial dispute to the Industrial Tribunal-cum-Labour Court, Visakhapatnam. This case bearing No. 38/2002 was transferred to this Tribunal by the order dated 19-1-2004 on a point of jurisdiction, in view of Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR(C-II) dated 18-10-2001. The reference is,

SCHEDULE

"Whether the action of the management of Visakhapatnam Port Trust in withdrawing Labuch Passes to the workmen which was being given to

them as privilege, which has been demanded by the Port & Dock Employees Association, Visakhapatnam is legal and justified? If not, to what relief the union is entitled?"

The reference is renumbered in this Tribunal as I.D. No. 67/2004 and notices were issued to the parties.

2. The petitioner union representative, General Secretary of the Port and Dock Employees Association has filed his claim statement stating that the Respondent Port Trust Management was providing VIP Launch to VIPs and two ordinary Launches for family members of the employees for going around the Port waters and visiting Port premises as a welfare measure. This facility was stopped and in its place the work of Launch cruise trips was awarded to the private persons on contract basis, who in turn playing the private Launches on payment of charges of Rs. 35 per head. This facility was also stopped and the action of the Respondent amounts to arbitrary and unilateral decision and the demand for the restoration of the facility by the union is justified. The Respondent instead of totally discontinuing should have arranged for the limited hours.

3. The Respondent filed the counter and denied the averments made in the petition and pleaded that the Respondent has provided Launches whenever not in operation use, to the employees as a sort of goodwill gesture to the employees as Port Trust employees go round in the Port waters and further submitted that the Launches which are used in the Port operations have been recently condemned as they were found not working and unsafe in utilization. There was a dearth of availability of Launches for Port operations. As such the Respondent had to hire Launches to continue Port operation to provide for CISF personnel and also for clearing garbage etc. As such no Launch could be spared for the visitor or for employees. Providing all these facilities is neither a privilege for the port employees nor a welfare measure, or a condition of service as mentioned in Sec. 9A of Industrial Disputes Act, 1947 and requested to dismiss the petition.

4. The Petitioner Union filed evidence affidavit of Sri N. Suryanarayana Rao, General Secretary of the Petitioner union and marked the following documents : Ex.W1 is the copy of representation to the Assistant Labour Commissioner(C), Visakhapatnam dated 22-11-2000 by the working President of the union and Ex.W2 is the copy of conciliation proceedings dated 29-5-2001 before the Assistant Labour Commissioner(C), Visakhapatnam. He stated that as per practice in vogue the Respondent management was providing VIP Launches for VIPs and two ordinary Launches for family members of the employees for going round the Port waters and visiting port premises as a welfare measure and this facility was stopped and the work of Launch Cruises were awarded to the private persons on contract basis, who in turn running

the Launches by charging Rs. 35 per head. Subsequently, that practice was also stopped.

5. The Respondent filed the evidence affidavit of Sri R. Ramulu, Dy. Secretary of the Respondent organization. He stated that the launches which were used in the Port operations have been condemned as they were not found to be worthy and unsafe. And the facility given to the employees is only a goodwill gesture and not a privilege or one of the service conditions under Sec. 9A of the Industrial Disputes Act, 1947.

6. Arguments heard on both sides.

7. It is contended by the petitioner union that the facility and privilege enjoyed by the employees and their family members are withdrawn by the Respondent without any justification. Further contended that the facility is one of the welfare measure and cannot be withdrawn without consulting the union.

8. On the other hand, the Learned Counsel for the Respondent contended that the launches which were in operation have been condemned as they are found to be not worthy and safe. Further, there is a dearth in the availability of the Launches in the port operations, and the Respondent is hiring Launches for providing to CISF personnel and for clearing of garbage etc. As such it is not in a position to provide to the employees and further there is a financial burden on the part of the Respondent for providing such facility.

9. It is not disputed that there was a practice of arranging launch trips in the Port water areas and originally no money was collected for arranging such trips and subsequently certain amount was collected from the employees and their families who happened to visit to Port. It is also not in dispute that on account of shortage of launches and condemnation of old launches, reduction of staff on account of VRS, the Respondent had hired some Launches from private persons for operating security measures. The facility extended by the Respondent to the employees and their families appears to be only a goodwill gesture. That the providing Launch Cruise to the employees is not one of the service conditions extended to the employees under Sec. 9A of Industrial Disputes Act, 1947. In view of the fact that the launches were condemned and there was shortage of launches for providing to the employees, it is not justified on the part of their workmen to demand to restore the facility. It is also not in dispute that there is a financial burden on the part of the Respondent for restoration of this facility. The facility extended by the management cannot be said to be a welfare measure. The Petitioner union could not establish that the facility extended is one of the welfare measure or attracting the provisions of Industrial Disputes Act, 1947. On considering the material on record I hold that the demand for providing the Launch facilities of the Port and Dock Employees Association, Visakhapatnam is not legal and justified and

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the action of the management in withdrawing the Launch passes is upheld by this Tribunal.

Award passed. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant, transcribed by her and corrected by me on this the 13th day of July, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witness examined for the Petitioner	Witness is examined for the Respondent :
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WW1 : Sri N. Suryanarayana Rao MW1 : R. Ramulu

Documents marked for the Petitioner

Ex.W1 : Copy of representation to the ALC(C), VSP
dt. 22-11-2000

Ex.W2 : Copy of conciliation proceedings dt. 29-5-2001

Documents marked for the Respondent

NIL

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3642.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसूर मिनरल लि. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचाट (संदर्भ संख्या 35/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-29012/16/2003-आई आर (विविध)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3642.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the employers in relation of the management of Mysore Minerals Ltd. and their workman which was received by the Central Government on 17-8-2006.

[No. L-29012/16/2003-IR(M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 1st August 2006

PRESENT

SHRI A. R. SIDDIQUI, Presiding Officer

C.R. No. 35/2003**I PARTY**

Shri Thimmaiah,
S/o Late Thimmiah,
Nagara Navile Village & PO,
Bagur Hobli,
CR Patna Taluk, Hassan Distt.
HASSAN

II PARTY

The Managing Director,
Mysore Minerals Limited,
No. 39, M.G. Road,
Bangalore-560001

APPEARANCES

- 1st Party : Shri K.T. Govinde Gowda,
Advocate.
- 2nd Party : Shri N. Ganesh, Advocate.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. 29012/16/2003-IR(M) dated 4th June 2003 for adjudication on the following schedule :

SCHEDULE

"Whether the management of Mysore Minerals Limited is justified in dismissing the services of the workman Shri Thimmaiah with retrospective effect? If not, to what relief the workman is entitled?"

2. The case of the first party workman in his Claim Statement, relevant for the purpose is that he joined the services of the management in the year 1982 as a Mining Worker and was rendering his services diligently and honestly; that in the year 1997 he was suffering from Appendix and had undergone surgery and even after surgery he was suffering from ill health and therefore, availed sick leave from 26-2-1998 till 30-4-1998 but the management without sanctioning the sick leave, conducted eye wash preliminary enquiry within half an hour on 19-6-1998 and on the basis of the so called findings of the enquiry officer holding him guilty of the charges of unauthorized absence from duty w.e.f. 26-2-1998 terminated his services by order dated 12-8-1998 w.e.f. 26-2-1998 illegally and thereafter did not take back him in service despite his several requests, the latest being made by way of representation dated 31-8-2001. Therefore, the action of the management in terminating his services is illegal and void liable to be set aside by this tribunal passing an award reinstating him in service with continuity of service, back wages and other consequential benefits.

3. The management by its counter statement however, contended that the first party remained absent from duty unauthorisedly from 20-6-1998 and despite the memos issued on 12-3-1998, 18-5-1998 and 11-6-1998 to report for duty with due explanation for his unauthorized absence failed to report duty resulting into a domestic

enquiry conducted against him and that on the basis of the findings of the enquiry officer holding him guilty of the charges he has been legally and rightly dismissed from service with retrospective effect from 20-6-1998 and therefore, reference is liable to be dismissed.

4. Keeping, in view the respective contentions of the parties with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal on 5-10-2004 framed the following Preliminary issue :

"Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?"

5. The management on the said issue examined the enquiry officer and got marked two copies of the enquiry notice at Ex.M1 series, proceedings of enquiry at Ex.M2, the enquiry findings at Ex.3 and the dismissal order at Ex.M4. The first party on his part filed his affidavit evidence as examination chief and there was no cross-examination to him on the part of the management.

6. After having heard the learned counsels representing the parties, this court by order dated 19-5-2006 recorded a finding on the above said issue holding that the Domestic Enquiry conducted against the first party by the Second Party is not fair and proper and the matter came to be posted for argument on merits. However, both the learned counsels for the parties and the parties remained absent before this tribunal when the matter was taken up for hearing and hence the following award.

7. As noted above, as could be seen from the dismissal order produced by the management, the first party has been dismissed from service by order dated 12-8-1998 with retrospective effect from 26-2-1998 and it is after holding the DE against him and on the basis of the enquiry findings holding him guilty of the charges of 'absenteeism'. As seen above, the first party challenged the enquiry proceedings, findings of the enquiry officer holding him guilty of the charges and so also the dismissal order passed against him and therefore, keeping in view the above said pleadings a preliminary issue was framed and parties were called upon to leave evidence on the said issue. As noted above, this tribunal by order dated 19-5-2006 set aside the enquiry proceedings recording a finding that the Domestic Enquiry held against the first party was not fair and proper. As could be read from the order sheet, When the matter was posted for argument on merits, there was no representation on the part of both the parties and therefore, matter was taken as heard and posted this day for award. Now therefore, in the light of the finding recorded by this tribunal on the point of Domestic Enquiry, it was incumbent on the part of the management to have produced before this tribunal fresh evidence in order to substantiate the charges of misconduct of unauthorized absence leveled against the first party. For the best reasons known to the

management it has not come forward with any fresh evidence to substantiate the charges of misconduct against the first party. The management also did not take any contention in the counter statement reserving its right to lead fresh evidence on the point of domestic enquiry, in case, it was held to be defective and was set aside by this tribunal. Therefore, there being no fresh evidence led by the management and the charges of misconduct having remained unproved, the only and irresistible conclusion to be drawn would be that the charges of misconduct leveled against the first party have remained to be proved and therefore, the action of the management in dismissing him from service with retrospective effect from 26-2-1998 by order dated 12-8-1998 is liable to be set aside as illegal and void. In the result the natural corollary would be the reinstatement of the first party into the service of the management to the post he was holding at the time of impugned dismissal order.

8. Now coming to the question of back wages, the dismissal order was passed against the first party on 12-8-1998 and whereas, from the date of reference it appears that he raised the dispute somewhere in the year 2003 i.e. after a gap of about 5 years from the date of dismissal. There has been no explanation much less plausible coming forth on the part of the first party for the inordinate delay caused in raising the dispute against the impugned punishment order. Therefore, there cannot be any back wages to be awarded to the first party for the period elapsed in between the date of dismissal and the date of reference before this tribunal. However, he can be awarded full back wages from the date of the reference till the date of his reinstatement, there being no evidence on the part of the management to suggest that the first has been gainfully employed during the above said period. He is also entitled for continuity of service for the above said period along with consequential benefits. Hence the following award :

AWARD

The management is directed to reinstate the first party workman in its service to the post he held at the time of impugned dismissal order with full back wages from 1-6-2003 till the date of his reinstatement with continuity of service for the above said period and all other consequential benefits. No. costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 1st August, 2006)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3643.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसूर मिनेरल्स लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, बेंगलूर के पंचाट (संदर्भ संख्या 34/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-29011/18/2003-आई आर (विविध)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3643.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 34/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the employers in relation of the management of Mysore Minerals Ltd. and their workman, which was received by the Central Government on 17-8-2006.

[No. L-29011/18/2003-IR(M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 1st August 2006

PRESENT

Shri A. R. Siddiqui, Presiding Officer

C.R. No. 34/2006

I PARTY

Shri Puttaswamyachary,
S/o Dasachari,
Yachanaghatta,
Nuggehalli Hobli,
Santa Shivara Post,
HASSAN (KARNATAKA)

II PARTY

The Managing Director,
Mysore Minerals Limited,
No. 39, M. G. Road,
Bangalore-01

APPEARANCES

1st Party : Shri K. T. Govinde Gowda,
Advocate.
2nd Party : Shri N. Ganesh, Advocate.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order. No. 29011/18/2003-IR(M) dated 4th June 2003 for adjudication on the following schedule :

SCHEDULE

"Whether the management of Mysore Minerals Limited is justified in dismissing the services of

Shri Puttaswamyachary with retrospective effect? If not, to what relief the workman is entitled to?"

2. The case of the first party workman, as made out in the Claim Statement, in brief, is that he joined the services of the management as a Mining Worker on 1-2-1985 rendering his services sincerely and honestly and suffered from ill health in the year 1997 and thereafter he availed sick leave from 22-5-1998 and when reported duty on 23-5-1998 he was not permitted to resume duty without any reasonable cause and excuse, he once again reported duty on 11-6-1998 with medical certificate but instead of allowing him to report for duty his medical certificate was torn off and one Mr. Thimmegowda, Foreman working in the management took his signatures on some papers and thereafter converted them into the enquiry proceedings and on the basis of so called enquiry he submitted findings holding him guilty of the charges and on the basis of the aforesaid findings, the management without applying its mind to the facts of the case and the fact that the first party remained absent from duty due to his sickness, availing sickness leave, passed the impugned punishment order illegally dismissing him from service and therefore, dismissal order is illegal and unjust liable to be set aside by this tribunal passing award in his favour for reinstatement, back wages and other consequential benefits.

3. The management by its counter statement on the other hand contended that the first party, undisputedly, remained absent w.e.f. 2-5-1998 giving rise to a Domestic Enquiry held against him and that on the basis of the enquiry findings holding him guilty of the charges of misconduct of unauthorized absence, he was dismissed from service vide order dated 12-8-1998 which order is perfectly legal and correct and therefore, reference is liable to be dismissed. The management also contended that the dispute having been raised after a lapse of 4 years period from the date of dismissal the claim of the first party is liable to be dismissed.

4. Keeping in view the respective contentions of the parties with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal on 5-10-2004 framed the following Preliminary issue:

"Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?"

5. The management on the said issue examined the enquiry officer and got marked two copies of the enquiry notice at Ex.M1 series, proceedings of enquiry at Ex.M2, the enquiry findings at Ex.M3 and the dismissal order at Ex.M4. The first party on his part filed his affidavit evidence as examination chief and there was no cross-examination to him on the part of the management.

6. After having heard the learned counsels representing the parties, this court by order dated 19-5-2006 recorded a finding on the above said issue

holding that the Domestic Enquiry conducted against the first party by the Second Party is not fair and proper and the matter came to be posted for arguments on merits. However, both the learned counsels for the parties and the parties remained absent before this tribunal when the matter was taken up for hearing hence the following award.

7. As noted above, as could be seen from the dismissal order produced by the management, the first party has been dismissed from service by order dated 12-8-1998 with retrospective effect from 2-5-1998 and it is after holding the DE against him and on the basis of the enquiry findings holding him guilty of the charges of 'absenteeism'. As seen above, the first party challenged the enquiry proceedings, findings of the enquiry officer holding him guilty of the charges and so also the dismissal order passed against him and therefore, keeping in view the above said preliminary issue was framed and parties were called upon to leave evidence on the said issue. As noted above, this tribunal by order dated 19-5-2006 set aside the enquiry proceedings recording a finding that the Domestic Enquiry held against the first party was not fair and proper. As could be read from the order sheet, when the matter was posted for argument on merits, there was no representation on the part of both the parties and therefore, matter was taken as heard and posted this day forward. Now therefore, in the light of the finding recorded by this tribunal on the point of Domestic Enquiry, it was incumbent on the part of the management to have produced before this tribunal fresh evidence in order to substantiate the charges of misconduct of unauthorized absence leveled against the first party. For the best reasons known to the management it has not come forward with any fresh evidence to substantiate the charges of misconduct against the first party. The management also did not take any contention in the counter statement reserving its right to lead fresh evidence on the point of domestic enquiry, in case, it was held to be defective and was set aside by this tribunal. Therefore, there being no fresh evidence led by the management and the charges of misconduct having been remained unproved, the only and irresistible conclusion to be drawn would be that the charges of misconduct leveled against the first party have remained to be proved and therefore, the action of the management in dismissing him from service with retrospective effect from 2-5-1998 by order dated 12-8-1998 is liable to be set aside as illegal and void. In the result the natural corollary would be the reinstatement of the first party into the service of the management to the post he was holding at the time of impugned dismissal order.

8. Now coming to the question of back wages, the dismissal order was passed against the first party on 12-8-1998 and whereas, from the date of reference, it appears that he raised the dispute somewhere in the year 2003 i.e. after a gap of about 5 years from the date of dismissal. There has been no explanation much less plausible coming

forth on the part of the first party for the inordinate delay caused in raising the dispute against the impugned punishment order. Therefore, there cannot be any back wages to be awarded to the first party for the period elapsed in between the date of dismissal and the date of reference before this tribunal. However, he can be awarded full back wages from the date of the reference till the date of his reinstatement, there being no evidence on the part of the management to suggest that the first party has been gainfully employed during the above said period. He is also entitled for continuity of service for the above said period along with consequential benefits. Hence the following award :

AWARD

The management is directed to reinstate the first party workman in its service to the post he held at the time of impugned dismissal order with full back wages from 1-6-2003 till the date of his reinstatement with continuity of service for the above said period and all other consequential benefits. No. costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 1st August 2006).

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3644.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विशाखापटनम पोर्ट ट्रस्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण हैदराबाद के पंचाट (संदर्भ संख्या 73/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-34011/8/2002-आई आर (विविध)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3644.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vishakhapatnam Port Trust and their workman, which was received by the Central Government on 17-08-2006.

[No. L-34011/8/2002-IR (M)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 14th day of July, 2006

Industrial Dispute No. 73/2004

(Old I.T.I.D(C). No. 7/2003 transferred from Industrial Tribunal-cum-Labour Court, Visakhapatnam)

BETWEEN

The General Secretary,
Port & Dock Employees Association,
Rama Padma Nialayam, 14-25-32A,
Dandu Bazar, Maharanipet,
Visakhapatnam.

.... Petitioner/Union

AND

The Chairman,
Visakhapatnam Port Trust,
Visakhapatnam-35.

.... Respondent

APPEARANCES

For the Petitioner : Sri S. Rama Rao, Advocate
For the Respondent : M/s D. V. Subba Rao &
D.V.S.S. Somayajulu,
Advocates

AWARD

This is a reference made by the Government of India, Ministry of Labour by its order No. L-34011/8/2002-IR (M) dated 6-2-2003 under Section 10 (1) (d) of I.D. Act, 1947 for adjudication of the industrial dispute to the Industrial Tribunal-cum-Labour Court, Visakhapatnam. This case bearing No. 7/2003 was transferred to this Tribunal by the order-dated 8-3-2004 on a point of jurisdiction, in view of Government of India, Ministry of Labour's Order No. H-11026/1/2001-IR (C.II) dated 18-10-2001. The reference is,

SCHEDULE

"Whether the demand of the Port & Dock Employees Association, Visakhapatnam to provide Action Shoes to the workmen working on Personal Computer, from the year 1999 and Moccasin Shoes to the workmen working in Stores Depot from the year 2000 as has been agreed by the Management of Visakhapatnam Port Trust vide their Minutes of Meeting circulated vide letter No. F1/IR/1263/URM/98 dated 6-4-1999 is legal and/or justified? If not, to what relief the union is entitled to?"

The reference is renumbered in this Tribunal as I.D. No. 73/2004 and notices were issued to the parties.

2. The Petitioner union represented by the General Secretary, Port and Dock Employees Association who submitted his claim statement. It is submitted that the Respondent is one of the pioneer industries in Visakhapatnam in handling the Cargo and procured several computers in modernization and imparted training to personnel in various departments w.e.f. 1-1-99. It is agreed by the Respondent/

Management in the review meeting held on 19-1-1999 with the trade union to supply action shoes for all the categories of the employees working on personal computers from the year 1999 and 'Moccasin Shoes' from the year 2000 to the staff of the stores department. The Respondent failed to supply the same even after lapse of four years and the Petitioner union carried the matter to the conciliation machinery by raising an Industrial dispute which resulted in referral by the Ministry of Labour. It is further submitted that having agreed to supply it is not fair on the part of the Management to take a different stand now.

3. The Respondent filed counter denied that the Management agreed in the review meeting with the trade unions to supply action shoes to the computer personnel and Moccasin Shoes working in stores department. It is further submitted that the Management has taken stand before the Assistant Labour Commissioner(C) in a conciliation meeting that it is a financial burden in implementing the demand of supply of shoes. It is further submitted that large number of employees are provided with uniforms and safety shoes (black leather) except ministerial staff as per the agreement dated 16-7-1992. As such the demand for Moccasin Shoes to the employees of the stores is not fair. It is further submitted that the demand for supply of action shoes to the employees was held prior to total computerization taken place in the organization. The Management subsequently decided to bring in total computerization of administration in all activities relating to personnel, finance, material etc., with a view to provide prompt and efficient service. Therefore, supply action shoes to all the employees working on computers is a heavy burden on the Management in view of the involvement of huge expenditure. It is further submitted that there is an instruction from the Ministry of Surface Transport, Government of India to take austerity measures by reducing the 10% of the budgetary allocations for non-plan expenditure. As such, it is not possible for the Management to supply specific brand of shoes to the employees.

4. The Petitioner union filed evidence affidavit of Shri N. Suryanarayana Rao. The Respondent filed evidence affidavit of Shri M. Nooka Raju, Asst Secretary, Mechanical Engineering Department, Visakhapatnam Port Trust and got marked the following documents. Ex. M1 is the copy of minutes of conciliation-dated 19-1-1999. Ex. M2 is copy of instructions from Ministry of Surface Transport.

5. Arguments heard on both sides.

6. It is contended by the Learned Counsel of the Petitioner that several meetings were held with the representatives of the trade unions regarding the supply of uniform and shoes etc., and ultimately the Respondent/Management has agreed to supply the action shoes to the persons operating on computers and Moccasin shoes to

the workers of the stores department in its union meetings on 19-1-1999 which is marked as Ex. M1. Further contended when the Respondent/Management agreed, it is estopped from the detraction on the ground of financial implications.

7. On the other hand, the Learned Counsel for the Respondent contended that the Respondent/Management agreed the demand of the workmen when the computerization was started and now the entire departments are computerized and the financial implications are more and the Management is not in a position to supply the action shoes and Moccasin shoes which are costly and further contended that the workers were already supplied with black shoes and further contended that the Department of expenditure, Ministry of Finance has issued instructions on 24-9-2000 as in Ex. M2 directing the Respondent to observe austerity measures and further instructed that there shall be a 10% cut in the budgetary allocations of non-plan and non-salary expenditure.

8. It is not in dispute that after several review meetings, the Respondent/Management has agreed to supply one pair of action shoes and two pairs of socks once in a year to all those who are regularly working on personal computers and similarly the Management also agreed to supply Moccasin shoes to the depot superintendent, depot stores keeper, sub-store keeper, ward keeper, Asst ward keeper and issue clerk.

9. It should be noted that the Respondent/Management agreed to supply the said shoes taking into consideration the financial implications on 19-1-1999. The contention of the Learned Counsel for the Petitioner that the Management agreed when there is limited number of employees working on the computers, and it has become heavy financial burden due to total computerization, as such the Respondent is not in a position to supply the agreed shoes, does not appear to be tenable when the Management is agreed to supply the shoes and particularly, entered into an agreement with the union. The Management has to fulfil its obligation by supplying the same. The Management has not held any meetings subsequently with the union leaders regarding the increased financial burden and for reduction or non-supply of the shoes. Once the Management has committed to supply, it has to fulfil its obligation. Any deviation for supply could have been modified by further meetings with the employee's union representatives.

10. It is not in dispute that the Government of India has imposed mandatory 10% cut in the budget allocations for non-plan and non-salary expenditure and directing the Respondent/Management to observe austerity in expenditure. The shoes which were agreed to by the Respondent are high-quality shoes involving much expenditure. It is no doubt true that the agreed shoes will last long in future, due to high quality. In view of the circumstances, it is just and proper to give a direction to

the respondent to supply the said action shoes and moccasin shoes once in two years instead of once in a year in view of the mandatory cut in the non-plan and non-salary expenditure.

11. It should be noted that when the said shoes were supplied to the employees working on computers and stores, they are not entitled for any other shoes, which were normally supplied to them.

12. For the above reasons, I hold that the demand of the Port & Dock Employees Association to provide the action shoes to the workmen working on personal computers and moccasin shoes to the workmen working in stores department is justified with a modification that they should be supplied once in two years from the date of publication of this award. The reference is answered accordingly,

Award passed. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 14th day of July, 2006.

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined : Witnesses examined
for the Petitioner for the Respondent

WW1 : Sri N. Suryanarayana MW1 : Sri M. Nookaraju
Rao

Documents marked for the Petitioner/Union

NIL

Documents marked for the Respondent/Management

Ex. M1 : Copy of minutes of meeting, dated 19-1-99
Ex. M2 : Copy of instructions of Ministry of Surface
Transport, dt. 24-9-2000

नई दिल्ली, 17 अगस्त, 2006

का. आ. 3645.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 195/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/241/2001-आई आर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th August, 2006

S.O. 3645.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 195/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the

Industrial Dispute between the management of Rajur Sub Area of WCL and their workmen, which was received by the Central Government on 17-08-2006.

[No. L-22012/241/2001-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE.

BEFORE SHRI A. N. YADAV, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. 195/2002

Date 09-08-2006

The Sub Area Manager, Rajur Sub Area of W.C.L.,
PO. Rajur, Dist. Yeotmal

Versus

Shri Dada Ganpath Khuspure, R/o Rajur, Pachashil
Wd. No. 6, PO. Rajur, Tah. Wani, Yeotmal (M.S.)

AWARD

The Central Government after satisfying the existence of disputes between Shri Dada Ganpath Khuspure, Party No. 2 and Rajur Sub Area of WCL, Party No. 1 referred the same for adjudication to this Tribunal vide its letter No. L-22012/241/2001-IR (CM-II) dt. 06-09-2002 under clause D of sub-section 1 and sub-section (2A) of Section 10 of ID Act with the following schedule :

SCHEDULE

"Whether the action of the management of WCL, Rajur Sub Area Manager in dismissing Shri Dada Ganpath Khuspure, a General Mazdoor w.e.f. 24-03-1998 is justified, proper and legal ? If not, to what relief the said workman is entitled ?"

The above dispute was fixed for filing of Statement of Claim on 29-05-2006. On that day as usual neither the petitioner nor the management i.e. W.C.L were present. It seems that on behalf of workman Advocate Golhar appeared in response to the notice of the Tribunal and sought adjournment for filing Statement of Claim. However just from the next date the post of the Presiding Officer was vacant and both the parties did not turn. Nobody appears till today though for some time my learned predecessor was working as a Presiding Officer. Till today even the Statement of Claim is not filed right from February, 2003. This indicates that the petitioner is not interested in prosecuting the claim. Hence it is dismissed for default of the petitioner. Hence this award.

A. N. YADAV, Presiding Officer

नई दिल्ली, 17 अगस्त, 2006

का. आ. 3646.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण,

नागपुर के पंचाट (संदर्भ संख्या 202/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/209/2001-आई आर (सी एम-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 17th August, 2006

S.O. 3646.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 202/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Shivpuri U.G. Mines of WCL, and their workmen, which was received by the Central Government on 17-08-2006.

[No. L-22012/209/2001-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI A. N. YADAV, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. 202/2002

Date 09-08-2006

The Manager, Shivpuri U.G. Mines of W.C.L., PO. Shivpuri, Dist. Chhindwara

Versus

The authorized representative of M.P.K.K.M.P. (HMS), Junardeo, Chhindwara

AWARD

The Central Government after satisfying the existence of disputes between the authorized representative of M.P.K.K.M.P. (HMS), Party No. 2 and Shivpuri Mines of WCL, Party No. 1 referred the same for adjudication to this Tribunal vide its letter No. L-22012/209/2001-IR (CM-II) dt. 03-09-2002 under clause D of sub-section 1 and sub section (2A) of Section 10 of ID Act with the following schedule :

SCHEDULE

"Whether the action of the management of Shivpuri U/G Mine of WCL, Pench Area, Dist. Chhindwara in terminating the services of Shri Ramprasad S/o Jiyalal Ex-Tub Loader of Shivpuri U.G. Mines. T.No. 2152 illegally is justified? If not, to what relief the said workman is entitled to?"

The above dispute came for hearing before the Tribunal on 28-07-2006. The perusal of record shows that, nobody has turned to the Tribunal in response to the notice issued by it as well as on the basis of receipt of the order of the Ministry. The order must have been sent directly to the authorized representative that too by a Registered Post. It was expected to appear but nobody either union or individual Ramprasad has appeared right from 13-01-2003. It is pending for filing of the Statement of Claim. This indicates that the party particularly the petitioner is not

interested in prosecuting it. I do not think it proper to continue the case even without filing of the Statement of Claim by the petitioner or by the union. Hence this is dismissed for default of the petitioner.

A. N. YADAV, Presiding Officer

नई दिल्ली, 17 अगस्त, 2006

का. आ. 3647.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 135/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/567/1999-आई आर (सी - II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 17th August, 2006

S.O. 3647.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 135/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of FCI and their workmen, which was received by the Central Government on 17-08-2006.

[No. L-22012/567/1999-IR (C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
LUCKNOW**

PRESENT

SHRIKANT SHUKLA, Presiding Officer

I.D. No. 135/2002

Ref. No. L-22012/567/99-IR (C-II) Dt. 24-7-02

BETWEEN

The State Secretary,
Bharatiya Khadya Nigam Karamchari Sangh,
5-6 Habibullah Estate,
Hazratganj, Lucknow

AND

The Sr. Regional Manager,
Food Corporation of India,
5-6 Habibullah Estate,
Hazratganj, Lucknow

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute No. L-22012/567/99-IR(C-II) dated 24-7-2002 for adjudication to the Presiding Officer CGIT-cum-Labour Court, Lucknow.

“Whether the action of the management of Food Corporation of India in not promoting the workman Sh. K. P. Sharma as AG-I (Depot) w.e.f. 1980 is legal and justified ? If not to what relief the concerned workman is entitled to ?”

Trade union's case in brief is that Sri K. P. Sharma was appointed as AG-III (Depot) on 30-11-71 and subsequently he was promoted to AG-II(D) on 16-7-72. It is further submitted that he was placed at seniority (zonal) no. 1106. He was liable to be promoted as AG-I(D) in the year 1980 when his juniors at seniority no. 1107 and 1108 were promoted ignoring the claim of the workman without any reason. One K.P. Sharma who was much junior to K.P. Sharma was promoted in 1984 vide zonal office order dated 29-11-84 ignoring the claim of the workman. However, on the great persuasion the promotion of the workman on the post of AG-I(D) was released vide dated 28-4-88 instead from 1980. The management of Food Corporation of India wrongly and illegally withheld the promotion of K. P. Sharma for the post of AG-I(D) w.e.f. 1980 to 1988 hence the workman is entitled to the promotion on the post of AG-I(D) w.e.f. 1980 alongwith all consequential benefits. Accordingly the trade union has prayed that direction be given to the management of Food Corporation of India to release the promotion of workman since 1980 with all consequential benefits.

Opposite party has filed written statement in which the management has disputed the date of appointment for K. P. Sharma and has submitted that K. P. Sharma was appointed on 30-6-71 as per the record of the management. It is admitted that K. P. Sharma was promoted in the year 1972 on the basis of old provisional seniority list of AG-III(D) and was placed at sl. no. 1106 of the provisional zonal seniority list of AG-II(D) as on 31-12-76. Consequently the seniority list has been recasted/reviewed in terms of Regulation 16(1) of FCI (Staff) Regulations 1971 by implementing the judgement of the Hon'ble Delhi Court pronounced on 14-1-92 and 11-1-94 in writ petition no. 3599/93 CWP No. 4006/90 and CWP No. 1339/92 and CWP no. 4681/93 and confirmed by the Hon'ble Supreme Court by dismissing SLP no. 6681/92 and 6890/92 filed by the Corporation. Thus on recasting/revision of seniority list K.P. Sharma was given notional promotion of AG-II(D) against 1977 panel and was placed at zonal seniority list no. 1391 circulated by zonal office letter no. 5(22)/95-E.III/NZ/Vol. I dated 20-10-85. Thus the averments made in statement of claim are wrong and misconceived. It is also submitted that while implementing the judgement of Hon'ble Delhi High Court, worker K. P. Sharma has been given notional promotion to the post of AG-I (D) against 1984 panel vide zonal office letter no. 5(13) 95-E-III/NZ Vol. I dated 28-2-95/6-3-96. As earlier provisional list of seniority has been replaced and stood cancelled on account of new revised seniority list thus no one can claim the promotional benefits of the earlier provisional seniority list which had 263191/06-8

become null and void in view of the Delhi High Court orders in various writ petitions. It is alleged that K. P. Sharma being not eligible for promotion in 1980 as per notional promotions and seniority list revised in accordance with the judgements of the Hon'ble Delhi High Court, and any such claim of the workman K. P. Sharma is thus defeated. It is submitted that K. P. Sharma is not entitled to any relief.

Opposite party has filed photocopy of revised seniority list of the panel 1977 and 1984.

The worker has not filed rejoinder nor the opposite party has produced any evidence nor they have turned up for argument.

The opposite party filed written statement on 24-7-03 the trade union was allowed to file rejoinder within a period of 15 days but the trade union or his representative or the worker did not file any rejoinder till 12-8-03 therefore the case was fixed for evidence on 29-10-03, several other dates were also fixed for evidence i.e. 26-12-03, 24-3-04, 5-8-04, 22-9-04, 21-12-04, but the trade union and the worker did not produce any evidence. Similarly the opposite party did not file any evidence till 31-7-06.

Thus court was to adjudicate the following issue :

“Whether the action of the management of Food Corporation of India in not promoting the workman Sh. K. P. Sharma as AG-I (Depot) w.e.f. 1980 is legal and justified ? If not to what relief the concerned workman is entitled to ?”

Trade union has failed to prove the allegation contained in the statement of claim and has failed to prove that the worker K. P. Sharma was entitled to the promotion as AG-I (Depot) w.e.f. 1980, therefore, the management's action can not be termed as illegal or unjustified. The issue is accordingly decided against the workman and the worker is not entitled to any relief.

7-8-2006

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3648.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जैट एयरवेज इंडिया प्रा. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुम्बई-I के पंचाट (संदर्भ संख्या 3/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-11012/21/2004-आई आर (सी-1)]

एस.एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3648.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 3/2005) of the Central Government Industrial Tribunal/Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Jet Airways India P. Ltd. and their workman, which was received by the Central Government on 17-08-2006.

[No. L-11012/21/2004-IR (C-1)]
S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 MUMBAI

PRESENT

JUSTICE GHANSHYAM DASS, Presiding Officer

Reference No. CGIT-03 of 2005

PARTIES

Employers in relation to the management of Jet Airways India Pvt. Ltd.

AND

Their workmen.

APPEARANCES

For the Management : Mrs. P. A. Kulkarni, Advocate
For the Workman : Absent.

State : Maharashtra

Mumbai, dated the 28th day of July, 2006

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (the Act for short) vide Government of India, Ministry of Labour, New Delhi, order No. L-11012/21/2004 IR (C-1) dated 14-12-2004. The terms of reference given in the schedule are as follows :

“क्या मैसर्स जैट एअरवेज इंडिया प्राइवेट लिमिटेड, मुम्बई द्वारा कर्मकार श्री जी. विक्टर डेविड, ड्राइवर को दिनांक 7-12-2002 से सेवा से हटा दिया जाना विधिवत उचित एवं न्यायसंगत है ? यदि नहीं, तो कर्मकार किस राहत का पात्र है ?”

2. The workman filed the Statement of Claim dt. 02-05-2005 and the Management of Jet Airways filed the Written Statement dt. 02-11-2005. The workman absented since the filing of the written statement by the Management of Jet Airways. The notice was issued by this office to the workman but it is surprising that he did not appear despite service of notice. It shows that the workman is not interested in pursuing with the reference.

3. In this circumstance, I have no other option but to dismiss the reference for want of prosecution.

4. Hence the dismissal of the workman is held to be justified and the Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3649.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 253/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-20012/427/2001-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3649.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 253/2001) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 17-08-2006.

[No. L-20012/427/2001-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (NO. 1), DHANBAD

In the matter of a reference under Section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 253 of 2001

PARTIES

Employers in relation to the management of Mudidih Colliery of M/s. BCCL

AND

Their workmen

PRESENT

Shri SARJU PRASAD, Presiding Officer

APPEARANCES

For the Employers : Shri D. K. Verma, Advocate

For the Workman : Shri R. N. Ganguly, Advocate

State : Jharkhand

Industry : Coal

Dated, 1-8-2006

AWARD

By order No. 20012/427/2001/IR(C-I), dated 27-11-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause(d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal.

“Whether the action of the management of BCCL in non-regularisation of Shri D. K. Singh as stenographer is justified? If not, to what relief is the concerned workman entitled and from what date?”

2. This reference is pending for evidence of the workman since 7-10-2005 and inspite of several adjournments no witness has been produced.

Mr. R. N. Ganguly, Adv. representing the sponsoring union submits that neither the workman nor the sponsoring union is turning up for a long time.

Therefore, they are not interested to contest this case.

In view of this submission by the learned lawyer of the sponsoring union/workmen, I render **NO DISPUTE AWARD**.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3650.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 105/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-20012/578/1997-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3650.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/1998) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 17-08-2006.

[No. L-20012/578/1997-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
(NO. 1), DHANBAD**

In the matter of a reference under section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 105 of 1998

PARTIES

Employers in relation to the management of Bhowrah
(North) Colliery of M/s. BCCL

AND

Their workmen.

PRESENT

Shri Sarju Prasad, Presiding Officer

APPEARANCES

For the Employers : Shri R. N. Ganguly, Advocate

For the Workmen : Shri D. Mukherjee, Advocate

State : Jharkhand

Industry : Coal

Dated. 2-8-2006

AWARD

By order No. L. 20012/578/97/IR(C-I), dated 1-12-98 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause(d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal.

“Whether the action of the management of Bhowrah (N) U.G. Mines of M/s. BCCL in dismissing Sri Vikram Gwala, peon, from the services of the company w.e.f. 6-4-94 is justified? If not, to what relief the workman is entitled?”

2. The concerned workman Vikram Gwala is reported to be dead and the sponsoring union was asked to make substitution of his heir, if any, by order dated 7-10-2005 and till date no substitution has been made.

In such circumstances, I render **NO DISPUTE AWARD**.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3651.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 113/2000) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-20012/462/1999-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3651.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 113/2000) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 17-08-2006.

[No. L-20012/462/1999-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (NO. 1), DHANBAD

In the matter of a reference under section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 113 of 2000

PARTIES

Employers in relation to the management of Govindpur Area of M/s. BCCL

AND

Their workmen

PRESENT

Shri Sarju Prasad, Presiding Officer

APPEARANCES

For the Employers : Shri D. K. Verma, Advocate
For the Workmen : Shri R. Ranjan, Advocate

State : Jharkhand

Industry : Coal

Dated, 2-8-2006

AWARD

By order No. L. 20012/462/99/IR(C-I), dated 18-2-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause(d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal.

“Whether the action of the management of Govindpur Area No. III of M/s. BCCL anot to regularised Sri Sahadeo Tiwary as a Munshi is justified ? if not, to

what relief the concerned workman Shri Sahadeo Tiwary is entitled ?”

2. No one is taking step from the side of the workmen since 4-4-2002. Shri D. K. Verma, Adv. for the management has filed copy of death certificate of the workman and it appears that the concerned workman Sri Tiwary is since dead, no one has been substituted from the side of the workman, this was a case of regularisation of the concerned workman as Munshi.

Since the workman has dies and right to sue does not survive.

Therefore, I render NO DISPUTE AWARD.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3652.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 35/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-20012/215/2004-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3652.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2005) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 17-08-2006.

[No. L-20012/215/2004-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (NO. 1), DHANBAD

In the matter of a reference under section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 35 of 2005

PARTIES

Employers in relation to the management of Bastacolla Area of M/s. BCCL

AND

Their workmen

PRESENT

Shri Sarju Prasad, Presiding Officer

APPEARANCES

For the Employers : Shri U. N. Lal, Advocate
 For the Workmen : Shri S. C. Gour, Advocate

State : Jharkhand Industry : Coal
 Dated, 2-8-2006

AWARD

By order No. L. 20012/215/2004/IR(C-I), dated 24-3-2005 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause(d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal.

“Whether the demand of the United Coal Workers Union from the management of Bastacolla Colliery of M/s. BCCL for regularisation Sri Naresh Paswan Cableman as U. G. Munshi is justified ? If so, to what relief is the concerned workman entitled and from what date ?”

2. This case is pending for filing of the rejoinder of the workman, Sri S. C. Gour, representative of the concerned workman/sponsoring union submits that the workman has not turned up for a long time and he is not interested to contest this case.

In view of the submission made by Sri S. C. Gour, Adv. for the sponsoring union. I render NO DISPUTE AWARD.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3653.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 215/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-20012/30/2000-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3653.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 215/2005) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the

management of BCCL and their workman, which was received by the Central Government on 17-08-2006.

[No. L-20012/30/2000-IR(C-1)]

S. S. GUPTA, Under-Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
 (NO. 1), DHANBAD**

In the matter of a reference under Section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 215 of 2000

PARTIES

Employers in relation to the management of Mudidih Colliery of M/s. BCCL

AND

Their workmen

PRESENT

Shri Sarju Prasad, Presiding Officer

APPEARANCES

For the Employers : Shri D. K. Verma, Advocate.
 For the Workmen : Shri B. B. Pandey, Advocate.

State : Jharkhand Industry : Coal

Dated, 2-8-2006

AWARD

By order No. L. 20012/30/2000/IR(C-I), dated 24-7-2000 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Mudidih Colliery of M/s. BCCL in rejecting the claim of Sri Vijoy Nonia, dependent son of late Bal Kushun Nonia for employment is justified ? If not, to what relief the said dependent is entitled ?”

2. This case is pending for the evidence but Sri B.B. Pandey, Adv. for the sponsoring union/concerned workman submits that the concerned workman has not turned up for a long time and the sponsoring union is not interested to contest the case.

Therefore, he prayed for passing necessary order.

In view of the submission made by the learned lawyer of the sponsoring union, I render NO DISPUTE AWARD.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3654.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 153/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-20012/299/1993-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3654.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 153/1994) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 17-08-2006.

[No. L-20012/299/1993-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (NO. I), DHANBAD

In the matter of a reference under Section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 153 of 1994

PARTIES

Employers in relation to the management of Kusunda
Area No. VI of M/s. BCCL

AND

Their workmen

PRESENT

SHRI SARJU PRASAD, Presiding Officer

APPEARANCES

For the Employers : Shri D. K. Choubey,
Advocate

For the Workmen : Shri J. N. Das, Advocate

State : Jharkhand Industry : Coal
Dated, 3-8-2006

AWARD

By order No. L. 20012/299/1993/IR(Coal-I), dated 1/5-7-1994 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by Clause(d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

Whether the action of the General Manager, Kusunda Area VI of M/s. BCCL, P.O. Kusunda,

Dhanbad, in denying to regularise the services of S/Shri Azhar Ali Mistry and 14 others (as per annexure) with the management of M/s. BCCL is justified ? If not, to what relief are the concerned workmen entitled ?

2. From the record it appears that no step has been taken from the side of the sponsoring union/concerned workman from 9-9-2003 except a fresh authority was filed on 12-5-2006. Sri D. Mukherjee, Adv. submits that the sponsoring union/concerned workman is not interested to contest their case.

Therefore, no dispute award may be passed.

Since, the sponsoring union/concerned workman are not interested to persue the case. I render NO DISPUTE AWARD.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3655.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 154/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-20012/142/2001-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3655.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 154/2001) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CCL and their workman, which was received by the Central Government on 17-08-2006.

[No. L-20012/142/2001-IR (C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (NO. I), DHANBAD

In the matter of a reference under Section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 154 of 2001

PARTIES

Employers in relation to the management of Bachara
Colliery of M/s. CCL

AND

Their workmen.

PRESENT

SHRI SARJU PRASAD, Presiding Officer

APPEARANCES

For the Employers : Shri D. K. Verma, Advocate.
 For the Workmen : Shri N. G. Arun, Advocate.
 State : Jharkhand : Industry : Coal

Dated, 4-8-2006

AWARD

By order No. L. 20012/142/2001/IR(C-I), dated 10-7-2001 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by Clause(d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

"Whether the dismissal of Sri Baldeo Lohar from the services by the management of Bachara Colliery of M/s. Central Coalfields Limited is legal and justified? If not, to what relief is the concerned workman entitled?"

2. From the record it appears that the case is pending for the substitution of legal heir of the concerned workman who had died. The case is being adjourned since 16-4-2003 for the said purpose.

Further, it appears that the wife of the concerned workman had approached the Hon'ble Patna High Court, Ranchi Bench for her appointment on compassionate ground and by order dated 29-8-98. The Hon'ble High Court has been pleased to hold that she is not entitled for employment.

In view of the aforesaid circumstance, I render NO DISPUTE AWARD.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3656.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 74/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-20012/271/1995-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3656.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/1996) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of CCL and their workman, which was received by the Central Government on 17-08-2006.

[No. L-20012/271/1995-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
 NO. 1, DHANBAD**

In the matter of a reference under section 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 74 of 1996

PARTIES

Employers in relation to the management of
 Bhurkunda Colliery of M/s. C. C. Ltd.

AND

Their workmen.

PRESENT

SHRI SARJU PRASAD, Presiding Officer

APPEARANCES

For the Employers : Shri D. K. Verma, Advocate.
 For the Workmen : Shri B. B. Pandey, Advocate.
 State : Jharkhand : Industry : Coal

Dated, the 7th August, 2006.

AWARD

By order No. L. 20012/271/1995/IR(Coal-I), dated 26-9-1996 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by Clause(d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

"Whether the demand by Shri Prayag Chamar that he was removed from service illegally by the management of Bhurkunda Colliery of M/s. C. C. L. is justified? If so, to what relief is Shri Prayag Chamar entitled?"

2. The case of the concerned workman, Prayag Chamar, is that he had been working as Trammer at Bhurkunda Colliery of M/s. C. C. Ltd. He was served with a service excerpt in the year 1987 containing relevant particulars and in that the date of birth of the concerned workman has been entered as 1-7-1942. The concerned workman was to retire from service in the year 2002 w.e.f. 1-7-2002, but the management superannuated him all of sudden by letter dated 26/27-10-92 which is illegal and arbitrary. Therefore, the concerned workman has made demand for reinstatement in service with full back wages.

3. The case of the management is that the concerned workman, Prayag Chamar, was never removed from the service as a measure of punishment or by way of termination. He was simply superannuated from his service after

completion of 60 years of age as per service record of the management. Since the present reference is arising out of a complaint therefore it is not an industrial dispute. Further according to the management, the concerned workman was appointed on 20-9-58 at Serampur colliery of Giridih Area and he was transferred to Bhurkunda colliery by letter dated 15-1-69. The concerned workman was an illiterate person so he could not declare his date of birth at the time of his entry into service of the colliery. He also could not produce any document in support of his date of birth and his date of birth column remained blank in the service register of the company. The concerned workman appeared before the Age Determination Committee on 1-7-64 where he was medically examined and the Age Determination Committee declared his age as 42 years on 1-7-64. Therefore as per above medical report his date of birth should have been mentioned as 1-7-22 but for the obvious mistake it was recorded as 1-7-42 with the full remark that the age determined by the Age Determination Committee was 42 years on 1-7-64. This mistake was carried on in other registers also. In the year 1992 it was observed that the concerned workman was looking very old and was unable to perform his duty because of his old age. Then his service record was checked and it was detected that there was glaring mistake committed in the year 1964 when the date of birth was computed on the basis of age assessed by the Age Determination Committee. The concerned workman had already crossed the age of 60 years in the year 1982 itself and already enjoyed his service for more than 10 years extra, he was issued the letter of superannuation dated 26/27-10-1992 with immediate effect.

4. The concerned workman has been examined as WW-1 and he has stated that at Sreerampur colliery where he was initially appointed his date of birth was mentioned as 1-7-42 and in the service excerpt also the same date of birth has been mentioned, but he has been stopped from duty from the year 1992. He should have been allowed to work and he should have retired in the year 2002. He has further said that he was never referred to Medical Board. However, the concerned workman has not filed any document to prove that his date of birth is 1-7-1942.

The management has also examined one witness and has produced the service register of the concerned workman when the owner of the colliery was National Coal Development Corporation. In this service register there is clear cut endorsement that the age Determination Committee has determined his age as 42 years as on 1-7-64 and as such his date of birth has been recorded as 1-7-42. Therefore from the endorsement which is of the period of N.C.D.C. itself it is crystal clear that a mistake has been committed by the person who made this endorsement as because if his age was 42 years on 1-7-64 then certainly his date of birth will be 1-7-1922, it cannot be 1-7-1942. This is a clerical mistake which has occurred in subsequent registers of the colliery also. The concerned workman has already worked

for more than 34 years in the 1992. In the superannuation notice this fact has been clearly mentioned that his age was determined on 1-7-64 by the Age Determination Committee as 42 years. Therefore his date of birth should have been recorded as 1-7-1922, but it has been mentioned as 1-7-42 by mistake. The concerned workman by taking the advantage of mistake wants to gain extra mileage by doing job for further ten years, then in that case his length of service would be more than 44 years. Since the mistake is apparent and glaring therefore the management has rightly superannuated him. He ought to have been superannuated on 1-7-1982 itself.

5. Therefore, in the reasons mentioned above, I render following award :—

The demand of Prayag Chamar that he was illegally removed from service by the management of Bhurkunda Colliery of M/s. C. C. Ltd. is not justified and he is not entitled to any relief.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3657.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा. को. को. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद-I के पंचाट (संदर्भ संख्या 108/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-20012/123/2003-आई आर (सी-1)]

एस. एस. गुप्ता, अवसर सचिव

New Delhi, the 18th August, 2006

S.O. 3657.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 108/2003) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 17-08-2006.

[No. L-20012/123/2003-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference u/s. 10(1)(d) & (2A) of Industrial Disputes Act, 1947

Reference No. 108 of 2003

PARTIES

Employers in relation to the management of Jealgora Colliery of M/s. C. C. Ltd.

AND

Their workmen.

PRESENT

SHRI SARJU PRASAD, Presiding Officer

APPEARANCES

For the Employers : Shri D. K. Verma, Advocate.

For the Workman : Shri B. N. Singh,
General Secretary,
National Coal Workers
Congress.

State : Jharkhand

Industry : Coal

Dated, the 8th August, 2006.

AWARD

By order No. L. 20012/123/2003/I.R. (C-1), dated 10-11-2003 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal :

"Whether the demand of National Coal Workers Congress from the management of Jealgora Colliery of M/s. B.C.C. Ltd. that the date of birth of workman, Sri Sudama Singh, Winding Engine Operator should be incorporated as 2-8-1951 in place of 21-6-45 in his service record is proper and justified? If so, to what relief the workman concerned is entitled?"

2. The case of the sponsoring union is that Sudama Singh, Winding Engine Operator is a workman of M/s. B.C.C. Ltd. at Jealgora colliery. His actual date of birth as per Winding Engine Operator certificate is 2-8-51, but in Form 'B' register and other documents of the management his date of birth has been recorded as 21-6-45 which should be corrected as 2-8-51.

3. The case of the management, on the other hand, is that the concerned workman was referred to Apex Medical Board and as per the report of the Apex Medical Board dated 21-6-86 his age was found to be 41 years and as such his date of birth has been recorded as that of 21-6-45. The same date of birth has been recorded in other statutory registers of the management and in the service excerpt also the same date of birth was mentioned; which was served upon him in the year 1987 in order to file objection, if any, regarding any entry in his service record, but the concerned workman did not file any objection. According to the management the concerned workman in order to get extra years of service manipulated things of getting his date of birth recorded in the Winding Engine Operator certificate as 2-8-51 without any basis. Therefore, the demand of the concerned workman is not at all justified.

4. The management has produced Form 'B' Register of the concerned workman, Ext. M-1, from which it appears that he was examined by Medical Board and the Medical

Board assessed his age as 41 years as on 21-6-86 and on that basis his date of birth has been recorded as 21-6-45. This Form 'B' register has been authenticated by the concerned workman by putting his signature.

The management has also filed the report of the Medical Board for assessment of age which is dated 21-6-86 and his age has been assessed as 41 years as on 21-6-86. In the computerised record also the same date of birth has been mentioned which is Ext. M-3. An office order was issued accordingly on 25/26-6-86 that the date of birth of the concerned workman is 21-6-45, but no objection was filed by the concerned workman. The concerned workman was transferred from Lohapatti colliery and in the L.P.C. also which is Ext. M-4 the same date of birth has been mentioned. In the Form 'B' register of Lohapatti colliery the same date of birth has been recorded. The concerned workman has admitted that he was served service excerpt in the year 1987 in which same date of birth was recorded, but he has not filed any objection, rather he returned back one copy of the same after putting his signature. He has also admitted that in the L.P.C. of Lohapatti colliery also his date of birth was mentioned as 21-6-45 and in the Form 'B' Register of Jealgora colliery the same date of birth has been mentioned. He has admitted that he has filed application for appearing in Winding Engine Operator himself. Thus, it is clear that his application for appearing in the examination of Winding Engine Operator was not forwarded by the management and therefore his date of birth was not also authenticated by the management. The date of birth mentioned in Mining Sirdar Certificate or Winding Engine Operator is to be relied upon only when the date of birth has been authenticated by the management. The concerned workman has not even filed any document in support of the fact that his real date of birth is 2-8-51. Further it appears that he has given that on experience of driving Winding Engine at Jitpur Colliery as per the Winding Engine Driver's II Class Certificate (W-1) but from his evidence itself it is clear that he was never posted in Jitpur colliery. Therefore, he had certainly made incorrect statement regarding his experience as Winding Engine Operator at Jitpur colliery. According to him, he was initially appointed in Bhurungia colliery where he served upto 1995 thereafter he was transferred to Lohapatti colliery and from Lohapatti colliery to Bhatdee colliery. He has not stated that he was ever worked in Jitpur colliery. According to him, from 17-10-77 to 1995 he had worked at Bhurungia colliery. Therefore, he has worked in Jitpur colliery in the year 1982 as Winding Engine Operator is certainly a false claim. There is no evidence from the side of the workman except the Winding Engine Operator Certificate (Ext. W-1) that his actual date of birth is 2-8-51. On the other hand, the management has referred him to Apex Medical Board and the Apex Medical Board has determined his age as 51 years as on 21-6-86 and on that basis his date of birth was recorded as 21-6-45 in all the statutory registers

including Form 'B' Register without any objection from the concerned workman. He is a literate person and has put his signature authenticating the recording of date of birth in Form 'B' register and other registers of the company and also in the service excerpt served upon him in the year 1987. Thus, it is clear that he has got his date of birth recorded as 2-8-51 in Winding Engine Driver's Hind Class Certificate without being authenticated by the management and without any supporting document like school leaving certificate. Therefore, I find that the demand of the sponsoring union for correction of his date of birth is totally unjustified. Furthermore, as per the JBCCI Instruction itself the age determined by Apex Medical Board is final. In JBCCI Instruction the representatives of all the Trade Unions were parties, therefore the claim of the sponsoring union is baseless.

5. In the result, I render following award.

The demand of National Coal Worker's Congress for correction of date of birth of the concerned workman, Sudama Singh, is not justified and he is not entitled to any relief.

SARJU PRASAD, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3658.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन एअर-लाइंस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-1 के पंचाट (Comp. No. CGIT. 2/2004 arising out of Ref. No. 71/03) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2006 को प्राप्त हुआ था।

[सं. एल-22013/1/2006-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3658.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Comp. No. CGIT. 2/2004 arising out of Ref. No. 71/03) of the Central Government Industrial Tribunal/Labour Court, Mumbai-I now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines and their workman, which was received by the Central Government on 18-08-2006.

[No. L-22013/1/2006-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT

JUSTICE GHANSHYAM DASS, Presiding Officer

Complaint No. CGIT-02 of 2004

(Arising out of Ref. No. CGIT-71/2003)

PARTIES

Vande Mataram Kamgar Sena Complainants

Vs.

Indian Airlines Ltd. Opp. Party

APPEARANCES

For the Opp. Party : Mr. Shri R. S. Pai, Adv.

For the Complainant : Mr. J. P. Sawant, Adv.

State : Maharashtra

Mumbai, dated the 28th day of July, 2006.

AWARD

The instant complaint has been filed by Vande Mataram Kamgar Sena against the Regional Director, Indian Airlines, Mumbai through its President Chandrakant Mahadeo Jadhav, duly identified by Shri J. P. Sawant, Advocate, High Court, Mumbai. The matter came up for hearing, finally on 28-7-2006. The learned counsel for the Union has filed an application that the complaint may be dismissed for want of prosecution.

2. In this circumstance, the complaint is accordingly dismissed.

JUSTICE GHANSHYAMDASS, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3659.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोची रिफाइनरीज लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, एर्नाकुलम के पंचाट (संदर्भ संख्या 17/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-30012/89-ए/1996-आई आर (सी-1)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3659.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2006) of the Central Government Industrial Tribunal/Labour Court, Ernakulam now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kochi Refineries Ltd. and their workman, which was received by the Central Government on 17-08-2006.

[No. L-30012/89-A/1996-IR (C-1)]

S. S. GUPTA, Under Secy.

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM***** PRESENT**

SHRI P. L. NORBERT, B.A., LL.B., Presiding Officer

(Wednesday the 2nd day of August, 2006/
11th Sravana, 1928)**I.D. 17/2006**

Workman/Union : The General Secretary
Cochin Refineries Employees
Consumer Co-op. Society, Canteen
Employees' Union, Ambalamughal-
682 302
Kerala.

Adv. Shri C. Anil Kumar

Management : 1. The General Manager (HRM),
Kochi Refineries Ltd.,
Ambalamughal-682 302,
Kerala.

2. The President
Cochin Refineries Employees
Consumer Co-op. Society Ltd.,
No. E-226, Ambalamughal-682 302
Kerala

M-1—Adv. M/s. Menon & Pai

M-2—Adv. Shri Paulson C. Varghese

AWARD

This is a reference made by Central Government under
Section 10(1)(d) of Industrial Disputes Act, 1947 for
adjudication. The reference is :—

“Whether the demand of the C.R.E.C.C.S. Canteen
Employees' Union for regularizing the services of 63
canteen employees under the management of M/s
Cochin Refineries Ltd., is justified ? If so, to what
relief are the concerned workmen entitled ?”

2. The facts in brief are as follows :—

The Union represents the Canteen Employees of
Cochin Refineries Ltd. The first management is Cochin
Refineries Ltd. and second management is Cochin Refineries
Employees Consumer Cooperative Society (CRECCS). The
society is registered under Kerala Cooperative Societies
Act, 1969. It has its own bye-laws. The company is running
a canteen through the society. According to the union all
infrastructural facilities for running the canteen were
provided by the company to the society. In the beginning
majority of the Directors of the Board were nominees of
the company. On 24-5-1974 there was an agreement between
first management and second management regarding
management of the canteen. The company has shares worth
Rs. 5000 which is the maximum limit permitted by bye-laws

of the society. Huge amounts are given as interest-free
advance to the society by the company for canteen
expenditure. Accommodation, furniture, equipments,
fittings, utensils etc. for the use of the canteen is provided
by the company. All major repairs are done by the company.
LPG, water, electricity, washing and cleaning materials etc.
are provided by the company. Even vehicles for purchasing
provisions for the Canteen are provided by the company.
The company's Catering Officer checks the quality of the
food and looks after the hygiene of the canteen. He
supervises and controls the canteen affairs. There is
effective control over the staff and management of canteen
by the company. Salary, allowances, overtime wages,
provident fund, medical expenses, leave encashment,
L.T.A., bonus etc. are being provided by the company as
subsidy. For any revision of pay, prior approval of the
company has to be obtained by the society. The recruitment
standards of the canteen staff are fixed by the company.
Even uniforms of the canteen staff are provided and laundry
expenses are met by the company. However the company
is discriminating the canteen employees in respect of pay
and allowances. They are treated as employees of the
society and not of the company. The canteen employees
are entitled to be regularized in the service of the first
management company. The request of the union to the
company was turned down by the company. Hence this
industrial dispute.

3. The first management company contends that the
dispute is not maintainable. The union is representing the
employees of the society and not of the company. There is
no employer-employee relationship between the company
and members of the union. Therefore the union cannot
raise a valid industrial dispute against the company. The
society is a separate legal entity having its own bye-laws
and coming under the administrative control of the Registrar
of Cooperative Societies. As per the bye-laws, all the
employees of Cochin Refineries Ltd. can become members
of the society and Directors of the Board are elected from
among the members. The object of the society is among
other things, the establishment and maintenance of
canteens and restaurants for the benefit of its members.
Thus an industrial canteen is being run under the society.
The society is also running a consumer store. As per
Factories Act and Rules the company is extending adequate
infrastructural facilities to the society for running the
canteen. The company is reimbursing the cost of running
the canteen to the society since 24-5-1974. The society has
obtained contractor's licence as per Contract Labour
(Regulation & Abolition) Act, 1970 to engage workmen in
the canteen. The working conditions of canteen employees
are regulated by Factories Act. The society is the
appointing and disciplinary authority of canteen workers.
The service conditions of canteen employees are regulated
by Cooperative Societies Act and Rules and long term
settlements between unions of canteen employees and the

society. The company is not a party to such settlements. The canteen employees are well paid. The audit of the society is done by Registrar or his officers deputed by him. The administrative head of society is the Registrar of Societies. The appointment, promotion, payment of wages, disciplinary action, etc. are done by the society as per decision of the Board of the society and company has nothing to do with it. It is not correct to say that finance of the society is controlled by the company. It is managed by the Board of Directors of the society. Other than providing infrastructural facilities and extending various facilities as per agreement dated 24-5-1974 the company is not providing any other facility to the society. The company holds only nominal shares of the society. The expenditure incurred by the society for running the canteen is verified by the internal audit section of the company for making payment to the society. The company's medical officer conducts surprise checks of the canteen in order to maintain hygiene and quality of the food in the canteen. A catering officer is appointed by the company for coordinating the company's requirements with the society. A canteen manager is appointed by the society for supervising the staff and to manage the canteen. It is not correct to say that the company is providing vehicles to the society for purchasing food materials. Salary and other allowances are paid to canteen employees by the society. For revising the salary, approval of the company is not required. Recruitment to various posts in the canteen is done by society as per norms fixed by the Board of Directors of the society. The company has no say in the matter. The company does not provide uniforms to the canteen staff or meet laundry expenses. The staff of the canteen cannot claim parity with company employees as there is no employer-employee relationship between the two. The society is the employer of canteen employees. The canteen employees are not entitled for regularization in the company.

4. The second management filed a separate counter statement but adopting almost the same contentions as that of the first management company.

5. The points that arise for consideration are :

- (1) Is the union competent to raise an industrial dispute ?
- (2) Are canteen workers entitled to be absorbed in the principal employer company ?
- (3) Reliefs and costs.

The evidence consists of oral testimony of WW1 and the documentary evidence of Exts. W1 to 41 on the side of union and MW1 and 2 and Exts. M1 to 27(a) on the side of management.

6. Point Nos. (1) & (2) :

The dispute is between the union of canteen employees on the one hand and Cochin Refineries Ltd.

and the Consumer Cooperative Society on the other hand. The Cochin Refineries Ltd. (CRL) started functioning from 1966. Now there are 1963 employees. For the welfare of employees of the company a canteen was started in 1967 through a society. At the time of reference of the dispute to the court there were 64 canteen workers. Pending the dispute, one person retired. Thereafter more workers were taken and the number of workers now in the canteen is 104. The society was formed by the employees of CRL. The society is running a cooperative store as well as a canteen. The society was registered initially under Travancore Cochin Cooperative Societies Act, 1951 and later registered under Kerala Cooperative Societies Act, 1969 when it was enacted. Later a licence was issued to the society u/s 12(1) of Contract Labour (Regulation & Abolition) Act, 1970 to engage contract labour.

7. A preliminary objection was raised by the management that the union is incompetent to raise the industrial dispute. The cause of canteen workers is espoused by Cochin Refineries Employees Consumer Cooperative Society (CRECCS) Canteen Employees Union. According to the management the dispute could be raised only by the union of the employees of principal employer. Without going into the materials and evidence on record it is not possible to answer this issue. At the same time, the same set of facts and evidence will have material bearing on the next issue to be considered, namely, the absorption of canteen employees in the main establishment. Thus the evidence is bound to be overlapping and common in both issues. Hence it is only proper to consider points (1) & (2) together.

8. It is relevant in this connection to refer to the judgement of a Single Bench of the Hon'ble High Court of Kerala in O.P. 11090/97 decided on 15-2-2002 by His Lordship Justice J.B. Koshy. The award of the Industrial Tribunal in I.D. 60/92 that the canteen employees of TELK (Transformers & Electricals Kerala Limited), Angamali are entitled to be absorbed by TELK, was challenged in the writ petition. The Hon'ble High Court after referring to several decisions of Hon'ble Supreme Court on the subject, observed that the Industrial Tribunal had not considered whether the industrial dispute was a valid one and the unions which espoused the cause of canteen workers were competent to raise the dispute. The court held that the Tribunal has first to enter a finding whether the contract for running the canteen is sham or genuine and then consider the case on merits. However, it is not necessary to consider the validity of the dispute as a preliminary point. It will be enough to decide both points together.

9. The question whether there is a valid industrial dispute, was considered elaborately in Gujarat Electricity Board Thermal Power Station, Gujarat v. Hind Mazdoor Sabha & Others 1995-II—L.L.J. 790. The relevant dictum is contained in paragraph 50 of the decision, wherein it is

found by the Hon'ble Supreme Court that if the contract is sham, the workers of contractor can directly raise an industrial dispute. But if the contract is genuine the direct employees of principal employer alone can espouse the cause of contract labour. If contract labour is abolished u/s-10(1) of Contract Labour (Regulation & Abolition) Act, then also the direct employees of the principal employer can espouse the cause of contract labour. It is appropriate to quote the relevant portion of the paragraph :

"Para 50 :

- (ii) If the contract is sham or not genuine, the workmen of the so called contractor can raise an industrial dispute for declaring that they were always the employees of the principal employer and for claiming the appropriate service conditions. When such dispute is raised, it is not a dispute for abolition of the labour contract and hence the provisions of Section 10 of the Act will not bar either the raising or the adjudication of the dispute. When such dispute is raised, the industrial adjudicator has to decide whether the contract is sham or genuine. It is only if the adjudicator comes to the conclusion that the contract is sham, then he will have jurisdiction to adjudicate the dispute. If, however, he comes to the conclusion that the contract is genuine, he may refer the workmen to the appropriate Government for abolition of the contract labour under Section 10 of the Act and keep the dispute pending. However, he can do so if the dispute is espoused by the direct workmen of the principal employer. If the workmen of the principal employer have not espoused the dispute, the adjudicator, after coming to the conclusion that the contract is genuine, has to reject the reference, the dispute being not an industrial dispute within the meaning of Section 2(k) of the ID Act. He will not be competent to give any relief to the workmen of the erstwhile contractor even if the labour contract is abolished by the appropriate government under Section 10 of the Act.
- (iii) If the labour contract is genuine a composite industrial dispute can still be raised for abolition of the contract labour and their absorption. However, the dispute will have to be raised invariably by the direct employees of the principal employer. The industrial adjudicator, after receipt of the reference of such dispute will have first to direct the workmen to approach the appropriate Government for abolition of the contract labour under Section 10 of the Act and keep the reference pending. If pursuant to such reference, the contract

labour is abolished by the appropriate Government, the industrial adjudicator will have to give opportunity to the parties to place the necessary material before him to decide whether the workmen of the erstwhile contractor should be directed to be absorbed by the principal employer, how many of them and on what terms. If, however, the contract labour is not abolished, the industrial adjudicator has to reject the reference.

- (iv) Even after the contract labour system is abolished, the direct employees of the principal employer can raise an industrial dispute for absorption of the ex-contractor's workmen and the adjudicator on the material placed before him can decide as to who and how many of the workmen should be absorbed and on what terms."

In the light of the above observation, unless the contract between the principal employer and the society is found to be sham, the canteen employees' union cannot raise the present industrial dispute. Thus a decision on the issue regarding the genuineness of contract should precede a decision on the merits of the case.

10. Before I go into the question whether the contract is sham or not, I think it is proper to refer to the law on the subject as is evolved through various judicial decisions of Hon'ble Supreme Court and various High Courts which were relied on by both sides. The decisions generally lay down the following dicta :

- (1) Employees of a statutory canteen (u/s-46 of Factories Act) *ipso facto* do not become employees of the main establishment. They would be treated so only for the purpose of Factories Act and not for any other purpose.
- (2) There is no implicit requirement of automatic absorption of contract labour by the principal employer on issuance of a notification by the government u/s-10(1) of Contract Labour (Regulation & Abolition) Act, 1970.
- (3) There is no fixed formula to find out master and servant relationship or the nature of contract as sham or not. It is a question of fact to be decided by all the circumstances of the case.
- (4) The test to know the nature of the contract is :
 - (a) Where a workman is hired by the principal employer through a contractor, the latter would be merely an agent, and there is master and servant relationship between principal employer and workman.

- (b) Where a workman is hired by a contractor in connection with the work of an establishment a question might arise whether the contract is a mere camouflage. The answer to this, will decide who is the master of the workman. If the answer is in the affirmative the principal employer will be his master and if negative, then contractor will be his master.
- (5) The guidelines to know the nature of the contract are :—
- Whether the canteen has been there since the inception of the factory.
 - Whether the workmen have been employed for long years and despite change of contractors the workmen are continued to be employed in the canteen.
 - Whether the premises, furniture, fixture, fuel, electricity, utensils etc. have been provided for by the principal employer.
 - Whether the wages of canteen workers have to be reimbursed by the principal employer.
 - Whether the supervision and control of the canteen is exercised by the principal employer.
 - Whether the contractor works completely under the supervision, control and direction of the principal employer.
 - Whether the workmen have the protection of continuous employment in the establishment.

11. I will first refer to the decisions relied on by the learned counsel for the union Mr. C. Anil Kumar. In *parimal Chandra Raha & Ors. v. Life Insurance Corporation of India & Ors.* 1995-II-L.L.J. 339, the relevant discussion is contained in paragraphs 27 and 31. In paragraph 27 it is observed that whereunder the provisions of Factories Act a canteen is run for the use of employees of the company the canteen becomes a part of the main establishment and the workers employed in the canteen are the employees of the main establishment. In paragraph 31 it is found that in the facts and circumstances of the case, the canteen, of 'Life Insurance Corporation of India' run by Cooperative Society, has become a part of the establishment and Cooperative Society is only an agent of Life Insurance Corporation and a veil between corporation and canteen workers.

12. In *Gujarat Electricity Board Thermal Power Station, Gujarat v. Hind Mazdoor Sabha & Ors.* 1995-II-

L.L.J. 790, the court was dealing mainly with the question whether there was a valid industrial dispute in view of Section 10(1) of Contract Labour (Regulation & Abolition) Act. The relevant discussion is contained in paragraph 50 of the judgement which is already quoted in para 9 supra.

13. The decision in *MMR Khan & Ors. v. Union of India & Ors.* 1995-III L.L.J. (Suppl.) 166, is a 3 Judges Bench decision wherein it is held that the workmen of a statutory canteen would be workmen of the main establishment for the purpose of Factories Act only and not for any other purpose.

14. *Indian Petrochemicals Corporation Ltd. & Anr. v. Shramik Sena & Ors.* 1999-II L.L.J. 696, is a 3 Judges Bench decision. In that case a statutory canteen was being run through a private contractor in the premises of the Corporation. The question that arose for consideration was "whether the contract was sham or not and the workers of canteen were really the workers of the main establishment or not ?" The circumstances which impelled the court to find that the contract was sham, are enumerated in para-25 :

- The canteen has been there since the inception of the appellant's factory.
- The workmen have been employed for long years and despite change of contractors the workers have continued to be employed in the canteen.
- The premises, furniture, fixture, fuel, electricity, utensils etc. have been provided for by the appellant.
- The wages of the canteen workers have to be reimbursed by the appellant.
- The supervision and control on the canteen is exercised by the appellant through its authorized officer, as can be seen from the various clauses of the contract between the appellant and the contractor.
- The contractor is nothing but an agent or a manager of the appellant, who works completely under the supervision, control and directions of the appellant.
- The workmen have the protection of continuous employment in the establishment."

The conclusion is contained in paragraph 26 :

"Considering these factors cumulatively in addition to the fact that the canteen in the establishment of the management is a statutory canteen, we are of the opinion that in the instant case, the respondent—workmen are in fact the workmen of the appellant—management."

15. In *Indian Overseas Bank v. I.O.B. Staff Canteen Workers' Union & Anr.* (2000) 4 SCC 245, it is held that there is no fixed formula to find out the master and servant relationship. Each case has to be decided on the facts and circumstances of that case. The relevant discussion is in paragraph 18 :

"The standards and nature of tests to be applied for finding out the existence of master and servant relationship cannot be confined to or concretized into fixed formula (e) for universal application, invariably in all class or category of cases. Though some common standards can be devised, the mere availability of any one or more or their absence in a given case cannot by itself be held to be decisive of the whole issue, since it may depend upon each case to case and the peculiar device adopted by the employer to get his needs fulfilled without rendering him liable. That being the position, in order to safeguard the welfare of the workmen, the veil may have to be pierced to get at the realities. Therefore, it would be not only impossible but also not desirable to lay down abstract principles or rules to serve as a ready reckoner for all situations and thereby attempt to compartmentalise and peg them into any pigeonhole formulae, to be insisted upon as proof of such relationship. This would only help to perpetuate practicing unfair labour practices than rendering substantial justice to the class of persons who are invariably exploited on account of their inability to dictate terms relating to conditions of their service. Neither all the tests nor guidelines indicated as having been followed in the decisions noticed above should be invariably insisted upon in every case, nor the mere absence of any one of such criteria could be held to be decisive of the matter. A cumulative consideration of a few or more of them, by themselves or in combination with any other relevant aspects, may also serve to be a safe and effective method to ultimately decide this often agitated question. Expecting similarity or identity of facts in all such variety or class of cases involving different type of establishments and in dealing with different employers would mean seeking for things, which are only impossible to find."

16. *Steel Authority of India Ltd. & Ors. v. National Union Water Front Workers & Ors.* 2001-II L.L.J. 1087, is a 5 Judges Bench decision. The test to know whether the contract is sham or not, is laid down in paragraph 65 of the judgement :

"Where a workman is hired in or in connection with the work of an establishment by the principal employer through contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workman.

But where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workmen for any work of the establishment a question might arise whether the contractor is a mere camouflage as in *Hussainbhai Calicut's case* (supra), and in *Indian Petrochemicals Corporation's case* (supra), etc. ; if the answer is in the affirmative, the workman will be in fact an employee of the principal employer; but if the answer is in the negative, the workman will be a contract labour."

It is further held that there is no implicit requirement in Section 10 for automatic absorption of contract labour by the principal employer on issuance of a notification by the government u/s-10(1) of Contract Labour (Regulation & Abolition) Act. After referring to the report of Joint Committee of the Parliament on the Contract Labour (Regulation & Abolition) Bill 1967 and the provisions of the Act and the decisions on the subject in paragraphs 78 to 98, it is observed in para 99 as follows :

"The principle that a beneficial legislation needs to be construed liberally in favour of the class for whose benefit it is intended, does not extend to reading in the provisions of the Act what the Legislature has not provided whether expressly or by necessary implication, or substituting remedy or benefits for that provided by the Legislature. We have already noticed above the intendment of the CLRA Act that it regulates the conditions of service of the contract labour and authorizes in Section 10(1) prohibition of contract labour system by the appropriate Government on consideration of factors enumerated in sub-section (2) of Section 10 of the Act among other relevant factors. But, the presence of some or all those factors, in our view, provide no ground for absorption of contract labour on issuing notification under sub-section (1) of Section 10. Admittedly when the concept of an automatic absorption of contract labour as a consequence of issuing notification under Section 10(1) by the appropriate Government, is not alluded to either in Section 10 or at any other place in the Act and the consequence of violation of Sections 7 and 12 of the CLRA Act is explicitly provided in Sections 23 and 25 of the CLRA Act, it is not for the High Courts or this Court to read in some unspecified remedy in Section 10 or substitute for penal consequences specified in Sections 23 and 25 a different sequel, be it absorption of contract labour in the establishment of principal employer or a lesser of the statute will be far beyond the principle of ironing out the creases and the scope of interpretative legislation and as such clearly impermissible. We have already held above, on consideration of various aspects, that it is difficult to accept that the Parliament

intended absorption of contract labour on issue of abolition notification under Section 10(1) of CLRA Act.”

The conclusion is drawn in paragraph 119. The relevant sub-paragraphs are 3 to 6.

“Paragraph 119;

- (3) Neither Section 10 of the CLRA Act nor any other provision in the Act, whether expressly or by necessary implication, provides for automatic absorption of contract labour on issuing a notification by appropriate Government under sub-section (1) of Section 10, prohibiting employment of contract labour, in any process, operation or other work in any establishment. Consequently the principal employer cannot be required to order absorption of the contract labour working in the concerned establishment;
- (4) We overrule the judgement of this Court in *Air India's case* (supra) prospectively and declare that any direction issued by any industrial adjudicator/any Court including High Court, for absorption of contract labour following the judgement in *Air India's case* (supra), shall hold good and that the same shall not be set aside, altered or modified on the basis of this judgement in cases where such a direction has been given effect to and it has become final.
- (5) On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse, camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the concerned establishment subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder.
- (6) If the contract is found to be genuine and prohibition notification under Section 10(1) of

the CLRA Act in respect of the concerned establishment has been issued by the appropriate Government, prohibiting employment of contract labour in any process, operation or other work of any establishment and where in such process, operation or other work of the establishment the principal employer intends to employ regular workmen he shall give preference to the erstwhile contract labour, if otherwise found suitable and, if necessary, by relaxing the condition as to maximum age appropriately taking into consideration the age of the workers at the time of their initial employment by the contractor and also relaxing the conditions as to academic qualifications other than technical qualifications.”

17. In *V. Gopalakrishnan v. Cochin Port Trust* 2004 LAB I.C. 2953, a Single Bench of the Kerala High Court considered the question, whether the canteen employees of Cochin Port Trust are really the employees of the Port Trust or that of the contractor only. The canteen was run initially by a contractor and subsequently by a club formed by the employees of Port Trust. The Hon'ble High Court held that on the facts of the case the contractor or the club was only an agent of the principal employer. The Port Trust was having control over the management of canteen and it was a statutory canteen. Therefore the employees of the canteen were entitled to be regularized as employees of Port Trust. A number of decisions of Hon'ble Supreme Court are referred in the judgement. The discussion is contained in paragraphs 6 and 8.

18. On the management side the learned counsel for the Management Mr. E. K. Nandakumar cited the following decisions :

In *Union of India (Railway Board) & Ors. v. J. V. Subhaiah & Ors.* (1996) 2 SCC 258, the question that fell for consideration was, “whether the employees of Railway Cooperative Society were railway servants ?” It was held in paras 17 & 18 that the service conditions of employees of cooperative society were governed by provisions of A.P. Cooperative Societies Act and Rules and Bye-laws of the society. There is no obligation on the part of Railway Administration to provide security for those employees. The disciplinary control of the employees is exercised by the society in accordance with the provisions of Societies Act and Rules and Bye-laws. The Indian Railway Establishment Code is not applicable to them. Their appointment is subject to bond prescribed by the Registrar of Cooperative Societies. The services of the staff are liable to termination in terms of Cooperative Societies Act and Rules and Bye-laws. Hence the employees of Railway Cooperative Stores/Society cannot be treated as railway servants. It is further observed that if the subsidy given by

Railway to the society was considered to be a controlling factor and society/store as an intervening agency between Railway Administration and employees, the same principle would equally apply to staff, teachers and professors appointed in private educational institutions receiving aid from the government and hence could claim the status of government servants. Appointments through institutions like cooperative societies/stores in government service, if allowed, would become a gateway for backdoor entry into government service and would be contrary to the prescribed qualifications and other conditions and recruitment by public service commission. It was found in the decided case that the employees of Railway Cooperative Stores/Society cannot be treated as Railway servants.

19. *Elangovan M & Ors. v. Madras Refineries Ltd. Chennai & Ors.* 2005-II L.L.J. 653 is a Division Bench ruling of Madras High Court. The question that fell for consideration was—"whether employees of the statutory canteen were employees of Madras Refineries?" It was held that, whether the contract between the principal employer and the contractor is a sham or genuine contract is to be decided on the facts and evidence of each case. The employees of a canteen established u/s 46 of Factories Act would be employees of the establishment for the purpose of Factories Act only and not for any other purpose. The relevant discussion is contained in paragraphs 22 and 23 of the judgement. On the basis of the facts in that case it was held that the workmen of canteen were not the workmen of the establishment. It is important to note that in the decided case the canteen employees were not able to show how long they were working in the canteen. The court pointed out that when a new contractor took over the canteen, 27 employees of ex-contractor were not taken by the new contractor. The canteen workers then filed a petition before the Madras High Court (in a pending writ petition) for a direction to the new contractor to employ those 27 persons, but the prayer was rejected by the court. The matter was taken up in appeal, but failed. Thus, on the facts of the case it was held that the canteen workers cannot be treated as workers of Madras Refineries Ltd.

20. In *Haldia Refinery Canteen Employees Union & Anr. v. Indian Oil Corpn. Ltd. & Ors.* 2005-II L.L.J. 654, a statutory canteen was run through a contractor. The question was—"whether those canteen workers were workers of Indian Oil Corporation?" The court held that they were so only for the purpose of Factories Act and not for any other purpose. In the light of the facts in that case it was ultimately held that the canteen workers were not regular workers of the principal employer. It was also observed that on facts the case differs from *Indian Petrochemicals'* case. In *Haldia's* case the court observed that there was a contract between the management (I.O.C.) and canteen contractor that the contractor would pay and maintain staff of canteen that the management would not be made liable for anything including claims, suits or other

proceedings, that the contractor shall maintain registers, records and accounts including accounts pertaining to payment of wages to workers, etc. There was no stipulation in the contract that the workers should be retained by every successive contractor or that the workers under previous contractor should be taken by the present contractor. The contractor was given a free hand regarding engagement of workers in the canteen. The right to test, interview or otherwise to assess the quality of canteen workers recruited was with the management. This control was kept by the management to keep a check over the quality of service provided to its employees. It has nothing to do with either the appointment or taking disciplinary action or dismissal or removal from service of the workmen in the canteen. So also, on certain matters the management exercised effective control over the contractor and that was for the purpose of ensuring that the canteen was run in an efficient manner and provided wholesome and healthy food to the workmen of the establishment. But it does not mean that the employees of the canteen are the employees of the management. The relevant discussion is contained in paragraphs 14 to 17.

21. In *workmen in canteen of SRF Ltd. v. Govt. of Tamil Nadu* 1995-1 L.L.N. 487 the same question arose for consideration. It was held that the canteen employees were not the employees of principal employer. In paragraph 12 it is observed that the question whether there exists the employer-employee relationship between the proprietor of the factory and the canteen employees is not a matter of presumption but a question of fact which has to be decided in each case on the facts and circumstances of such case. In paragraph 16 it is observed that the settlement arrived at between the contractor and the canteen employees' u/s 12(3) of Industrial Disputes Act without the juncture of the principal employer is indicative of the fact that there is no relationship of master and servant between the principal employer and canteen workers. It was also found (para 27) that the disciplinary action against the canteen employees was being taken by the contractor and not by the principal employer.

22. In the next decision relied on by the Management and reported in *State of Karnataka v. K.G.S.D. Canteen Employees' Welfare Association* 2006-1 L.L.J. 691, the Hon'ble Supreme Court observed that it is not proper for the industrial adjudicator to apply the ratio of one decision to the exclusion of the other without considering the facts and circumstances involved therein. Para 34 contains the observation. It reads :

"34. We have referred to the aforementioned decisions in order to show that in each of the aforementioned cases the industrial adjudicator was required to apply the relevant tests laid down by this Court in the fact situation obtaining therein. Most of the cases referred to hereinbefore were considered

by this Court in the peculiar facts and circumstances obtaining therein, and, thus, it is even not proper for the industrial adjudicator to apply the ratio of one decision to the exclusion of other without considering the facts and circumstances involved therein. The law, however, does not appear to be settled as to whether even in case where the employer is required to run and maintain a canteen in terms of the provisions of the statute, the employees of the canteen would automatically be held to be the workers of the principal employer for all intent and purport and not for the purpose of the Factories Act alone. We, however, are not concerned with the said question in this matter and refrain ourselves from making any observation in respect thereof."

Another observation that was made in the decision was that it was not proper for the High Court under Article 226 of the Constitution to go into disputed questions of fact. Adjudication of such disputed questions of fact should be left to the Industrial Adjudicator (para 37). Regarding regularization it was observed in para 46 :

"The question which now arises for consideration is as to whether the High Court was justified in directing regularization of the services of the respondents. It was evidently not. In a large number of decisions, this Court has categorically held that it is not open to a High Court to exercise its discretion under Article 226 of the Constitution of India either to frame a scheme by itself or to direct the State to frame a scheme for regularizing the services of *ad hoc* employees or daily wages employees who had not been appointed in terms of the extant service rules framed either under a statute or under the proviso to Article 309 of the Constitution of India."

23. Keeping in view the principles of law and the guidelines enunciated in the decisions above referred I will go into the merits of this case. Admittedly the society is running the canteen. The society is registered under the Cooperative Societies Act. The provisions of the Act and Rules provide for the functioning and management of cooperative societies. The Registrar of the Cooperative Societies has control over societies. The account of the society are also subject to audit by the Registrar of Cooperative Societies. The society has bye-laws. Ext. W1 is the bye-laws of the society. As per Clause 2(c) one of the objects of canteen is establishment and maintenance of canteens and restaurants for the benefit of members of the society. The share capital of the society as per Clause 4 is Rs. One lakh consisting of 10,000 shares having value of Rs. 10 per share. Five hundred shares are held by Cochin Refineries Ltd. (CRL) and 9500 shares by the employees of CRL. The employees of CLR alone are members of the society. Clause 17 says that the management of the society shall vest in a Board of Directors which shall consists of 7

members. Clause 18 says that out of 7 members of the Board, 4 shall be nominated by CRL and 3 elected by the members of the society. The President of the Board shall be one of the 4 nominated Directors. Clause 19 (b) says that the quorum for meeting of the Board shall be not less than 4 members. Clause 24 says that it is the duty of the Board of Directors to maintain such accounts and registers as are prescribed by Cooperative Society Rules and by the Registrar. Besides the canteen, the society is also running a consumer store.

24. It is an admitted fact that the canteen in question is a statutory canteen falling u/s-46 of the Factories Act, Section 46 reads :

"46. Canteens.

- (1) The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for :
 - (a) the date by which such canteen shall be provided;
 - (b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;
 - (c) the foodstuffs to be served therein and the charges which may be made therefor;
 - (d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;
 - ((dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer;}
 - (e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c)."

25. Rule 91 of Kerala Factories Rules says that once the State Govt. notifies a factory under Rule 91(1) of the Rules, at once Rules 91 to 97 of the Rules becomes applicable to the factory. It is an admitted fact that the factory in question is a notified factory. Ext. W40 is the Gazette Notification. Such a factory has to provide a canteen near the factory. The canteen building shall be of the specified size and standard. The building has to be furnished by the factory. The equipments, utensils, water,

LPG, wages of the employees, cost of uniforms, repair and maintenance of the building etc. are to be provided and met by the factory. A balanced diet has to be ensured by the factory. Where a canteen is run by a cooperative society the account of the canteen is to be audited in accordance with the provisions of Cooperative Societies Act. Annual medical examination of canteen staff has to be carried out by the factory medical officer. Routine blood check is also to be conducted. Rule 96 (6) provides that where the workers of a factory desire to run the canteen by themselves on a cooperative basis with share capital contributed by them, the management may permit them to run the canteen in accordance with the bye-laws of cooperative society.

26. As per Contract Labour (Regulation & Abolition) Act, 1970 every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour and to every contractor who employs such number of workmen as aforementioned, the Act applies {Section 1(4)}. Section 7 says that every principal employer of an establishment to which this Act applies shall, within such period as the appropriate government may by notification in official Gazette fix, make an application to the registering officer in the prescribed manner for registration of the establishment. According to the management the factory was registered as per Section 7 of the Act. But no registration certificate is seen produced. As per Section 12 a licence has to be taken by the contractor for the purpose of undertaking or executing any work through contract labour. A licence is taken in this case and it is Ext.M3. Section 10(1) of the Act says that the appropriate government may by notification prohibit employment of contract labour in any establishment. There is no such notification in respect of the present society.

27. I have already referred to the legal position in the light of the decisions of Hon'ble Supreme Court that the workers of a statutory canteen (u/s-46 of the Factories Act) do not become workers of the main establishment by virtue of a notification under Rule 91(1) of Factories Rule. So also there is no automatic absorption of contract labour in the main establishment by virtue of a notification u/s 10(1) of Contract Labour (Regulation & Abolition) Act. Therefore the relevant aspect that requires consideration is: "Do the materials on record show whether the contract is sham or not?" The guidelines to distinguish a genuine contract from a sham contract are given in Indian Petrochemicals' case 1999-II L.L.J. 696 referred supra, paragraph 25.

- (a) The canteen has been there since the inception of the appellant's factory.
- (b) The workmen have been employed for long years and despite change of contractors the workers have continued to be employed in the canteen.

- (c) The premises, furniture, fixture, fuel, electricity, utensils etc. have been provided for by the appellant.
- (d) The wages of the canteen workers have to be reimbursed by the appellant.
- (e) The supervision and control on the canteen is exercised by the appellant through its authorized officer, as can be seen from the various clauses of the contract between the appellant and the contractor.
- (f) The contractor is nothing but an agent or a manager of the appellant, who works completely under the supervision, control and directions of the appellant.
- (g) The workmen have the protection of continuous employment in the establishment.

28. So far as the present canteen employees are concerned, most of them have been working from the very inception of the canteen in 1967. They have put in long years of service in the canteen. From the very beginning canteen is being run by cooperative society. There was no change of contractor during all these years. Shortly after the factory commenced working in 1966 the canteen was started. The premises, furniture, fixtures, fuel, electricity, utensils etc. are provided by the factory. There is no dispute regarding these aspects. The infrastructural facilities are to be provided by the factory as per Rules 91 to 97 of Factories' Rules. Ext. M22 is the list of canteen employees.

29. MW1, the General Manager (HRM) of first management says that there is a contract between the first management and second management (society) regarding canteen. Ext. M8 is copy of the contract. A reading of the terms of contract will unfold the extent of control by the first management over the second management in running the canteen. Clause 1 refers to shares of the society. Clause 2 refers to equipment, furniture, utensils, LPG, water, electricity etc. to be supplied by CLR to the society for running the canteen. Even vehicles for purchase of provisions for the canteen are to be provided by CRL with or without Driver of CRL as per Clause 2. Clause 3 is in respect of canteen services and reimbursement. It says that the price of materials to be purchased for preparation of food shall be transferred to canteen at cost of materials plus 5% margin thereon. The accounts of purchase should be maintained by the society and made available to the internal audit section of the first management company for the purpose of calculating the subsidy. The salary and allowances, provident fund contribution, medical claim of employees, leave encashment, LTA and all other expenses incurred on canteen are to be treated as canteen expenses in the subsidy bill to be submitted by the society to the company. The society has to submit monthly subsidy bills showing all details of canteen expenditure for the purpose of settling the subsidy claim. The company medical officer

has to check the quality of the food served in the canteen and oversee the general hygiene of the canteen and issue necessary directions to the society. The company has to fix the working hours of canteen. Clause 4 refers to canteen staff. The recruitment norms of canteen staff are to be laid down by society and shown to the company for review. For revision of salary, allowances and other benefits of canteen staff, as well as increase in the number of canteen staff prior approval of the company is required. Uniforms for the canteen staff and laundry expenses are to be met by the company. The contract thus reveals that the company is practically doing everything for the functioning of the canteen.

30. Ext. W5 (a) is a leave application of one Mr. K.S. John, a canteen staff. Ext. M22 is the list of canteen staff. The application was submitted to the CRL. The leave was granted by manager (Pers. & Adm.) of CRL. Ext. W6 is a medical reimbursement authorization of medical claims of Mr. K.R. Santhosh, Badge No. 844, a canteen staff. It is sanctioned by the medical officer of the company. Ext. W7 is a medical claim settlement of the claim of Mr. A.K. Aboobaker, a canteen staff, Badge No. 849. It was settled by the medical centre of CRL. Ext. W7 (a) is another medical claim settlement of one Mr. V.G. Shaji, Badge No. 864, a canteen staff. Ext. W8 is an application for incentives for adopting permanent family planning measures by one Mr. C.K. Aravindakshan, a canteen staff, Badge No. 854. The application was submitted to CRL and was sanctioned by company's medical officer. Ext. W8 (a) is another similar application for incentives by one Mr. N.B. Sajeewan, Badge No. 855, a canteen staff. Ext. W9 is authorization by medical officer of the company to reimburse medical claims of 21 canteen staff. Ext. W9 (a) is similar sanction in respect of 9 other canteen staff by the medical officer of the company. The annual medical check up and periodical blood checking are done by the medical officer of the company. The company is reimbursing medical claims of canteen staff.

31. Loan of all kinds-like housing loans, vehicle loans etc.—are paid by CRL and not by the society. The title deeds along with loan applications are submitted through society to CRL by canteen employees. They are scrutinized, processed and approved by CRL and loans are given by CRL. This is admitted by MW1 (page 29 of the deposition). Ext. W28 is a forwarding letter of the President of the Society to CRL forwarding the applications of canteen staff for cycle loans and scooter loans.

32. Ext. W10 is a requested by General Manager (HRM) of CRL to Indian Oil Corporation's Indian Area Office, Panampally Nagar requesting to revalidate the order for LPG connection to one C.P. Varghese, a canteen staff, who was not able to avail the connection on time. Ext. W10 (a) is the order of I.O.C. for priority for Indane connection to the employees of CRL and Mr. C.P. Varghese. Ext. W11 is a letter by CRL to one K.P. Subramanian, Badge No. 815, a

canteen staff to confirm whether he had secured the LPG connection. Ext. W11 (a) is a similar letter to another canteen staff, Mr. S. Benjamin, Badge No. 825. These documents show how far the company takes interest in the welfare of canteen staff.

33. Ext. W12 is a request of a canteen staff by name K.M. Babu, Badge No. 807 for bus facility for picnic submitted to CRL. MW1 has admitted at page 29 of his deposition that under the social interaction programme of CRL canteen staff were allowed to make use of company bus. Ext. W14 is an intimation to Mr. N.B. Sajeewan, a canteen boy, Badge No. 855 to attend in-house training programme conducted by CRL. Ext. MW14 (a) is a similar intimation to another canteen staff, Mr. C.K. Aravindakshan, Badge No. 854. Ext. W15 is a certificate of merit given to one K.T. Ajaya Gosh, Badge No. 862 for having participated in the CRL Cross Country Race (20 Kms) by CRL General Manager (P&A). Ext. W16 is a letter issued by CRL Sr. Manager (PR) to a canteen employee by name Mr. Jayan to provide stamp-size photograph for publishing his name and photograph in the periodical 'Jaladwani' for having completed certain number of years of service in the organization. Ext. W17 is a DBC release order issued by CRL to a canteen staff, C.P. Varghese.

34. Ext. W18 is a copy of advertisement inviting applications for the cost of catering officer. The requirements of the job are : deciding and implementing sound system of purchase, selection, quality inspection, storage and inventory, man control, implementing effective system of accounting and cost control, formulating appropriate menus, planning and upkeep of modern kitchen and service equipments, introducing appropriate practices for ensuring cleanliness and hygiene, planning and development of resources and staff, training and development of canteen staff etc. The catering officer is a person of CRL. The requirements of the job give an indication as to the nature of the control exercised by CRL through catering officer. Ext. W19 is a letter from the society to CRL for approval of the selection of two persons as Assistant Manager (Catering) and Canteen Supervisor. The test for recruitment of canteen workers according to the union is conducted by the company and not by the society. To support this contention Ext. W20 is produced. It is a notice issued by the company to the society as well as principal of the school where the test had to be conducted. The date and time of the test are shown in the notice. The date for the test was 10-10-1999. The venue of the test was Cochin Refineries' School Complex. It was contended by the management that the company gave this intimation and conducted the test as per the request of the society. Ext. M24 is produced to support this contention. It is a request by the President of the Society to the company to conduct the test for canteen employees. Paragraph 2 of the letter is : "as agreed you may conduct routine test". What was the agreement of on whose request there was an agreement to conduct the test

is not clear from the letter. At any rate, Ext. M24 refers to a test of 27-9-1998. Whereas Ext. W20 refers to a test of 10-10-1999. Unlike contended by the management Ext. M24 is not a request with regard to the test mentioned in Ext. W20. Besides, MW1 deposed that he is not sure whether a test was conducted both in 1998 and 1999. Thus the contention that the test was conducted by the company at the request of the society is not proved by the management. Whereas Ext. W20 shows that test was conducted by the company and not by the society or at the request of society. Ext. W21 is a letter from CRL to the society informing the society that a staff of CRL deputed to work in canteen is substituted by another staff. Ext. W22 is a request from the society to CRL for sanction to increase the number of manpower in canteen. Ext. W23 is a request by society to CRL for wage revision of casual labourers working in the canteen. Ext. W24 is a letter of CRL regarding recruitment of additional casual labour in the canteen. It is mentioned in the letter that the company through its security staff is trying to check the antecedents of casual workers before taking them for work in the canteen. Ext. W39 is a letter from CRL (Pers. Manager) to a Panchayat member requesting him to confirm the reference regarding a selected canteen employee.

35. Ext. W25 is a request by the catering officer to CRL to return a jeep of CRL to the canteen which was earlier used by the canteen and withdrawn by CRL. Ext. W26 is a Tender Notice published by CRL inviting tenders for operating buses, vans and jeeps for CRL and canteen. MW1 admits that 4 vehicles of the company are being used for the purpose of canteen (page 28 of his deposition). Ext. W27 is a request for sanction for enhancement of scooter allowance to canteen manager submitted to CRL by the society. Exts. W29 to 32 are the decision package for the capital budget 2000-01 issued by CRL, for the canteen which includes purchase of equipment, computer water heater etc. for the canteen. Ext. W33 is a request of Dy. Manager (Catering) to CRL for approval to engage a person to catch cats in the canteen due to cat menace. Ext. 34 is a report of General Manager (HRM) of the company to the Chairman and Senior Officers of the company regarding performance award for the financial year 1992-93 to the employees of CRL as well as canteen employees in the light of the achievements in production of the company during the financial year. Ext. W36 is a letter from CRL to the society requesting the society to make arrangements to procure dress materials for two sets each for canteen staff at cost specified in the letter. Ext. W37 is a request by society to CRL for approval of additional cost incurred due to price escalation, of dress materials. The company revised the cost of uniforms as requested by the society. Ext. W38 is request made by Assistant Canteen Manager to CRL for approval for supply of materials required for the canteen. It was approved by General Manager (HRM).

36. The documents referred above reveal the extent of control over the canteen by the first management

company. Not only the infrastructural facilities like building, furniture and equipments but everything including recruitment, service conditions, welfare, salary and allowances, loans, retirement benefits etc. of canteen staff are regulated and decided and paid by CRL and not by the society. The society is only an agent through which payment is effected or welfare measures are implemented. The functions of the canteen right from the time of purchase of provisions till the cost of meals and snacks are accounted for the purpose of getting subsidy, everything is done under the supervision, control and approval of CRL. Admittedly there is a catering manager housed in the canteen building to look after the quality, diet and hygiene of the canteen. Besides, one or two clerks are deputed from CRL to the canteen for clerical work of the canteen. Admittedly the expenditure in the canteen is reimbursed by the company as subsidy on submission of accounts and subsidy bills by the society. The society is formed with one of the objects to establish and maintain canteens and restaurants. However the statutory control by the Registrar of Cooperative Societies and its office is only nominal and the actual control is by the company. The staff of the canteen is selected through tests which are conducted by the company. If the society wants to increase the staff strength of the canteen prior approval of the company is required. If salary, allowances or perks of canteen staff are to be revised or increased, prior approval of the company is necessary. The periodical medical check up of canteen staff is done by the medical officer of the company. Medical reimbursement is made by the company. Leave applications are submitted to the company and sanctioned by the company. Housing loans, vehicle loans etc. are sanctioned and paid by the company. Even gas connections to the residence of canteen staff are arranged by the company. Vehicle allowance and several other prerequisites given to canteen staff are reimbursed by the company. Whenever incentives or performance awards are given to regular employees of the company, the same is extended to canteen employees also. Even uniforms are provided by the company. Perhaps the only thing that is not being done by the company is disciplinary action. The disciplinary action is taken by the society. It could be said that it is the only control that the society is exercising over canteen workers.

37. It is important to note that in the beginning, in 1987, the Board of Directors of the society consisted of 7 members of which 4 were nominated by the company. The President of the society had to be selected from among the 4 nominated Directors. The quorum for Board meeting was 4 members. It means that the company could do anything they wanted regarding the canteen. The four nominated members could hold meetings even if the other three would not turn up. It is in 1994 that the bye-laws of the society were amended increasing the number of members of the Board from 7 to 9 and stopping nomination of Board members

by the company. Instead of nomination provision was made to elect members by voting by shareholders of society. But from 1967 to 1994 the nominated directors of the Board enjoyed majority in the Board. Despite the amendment the bridle of canteen is with the company. The furnishings and finance are provided and function of the canteen is controlled and supervised by the company, leaving the society as an onlooker.

38. It is relevant to note that the company has not taken registration u/s 7 of Contract Labour (Regulation & Abolition) Act. A licence u/s 12 (1) of the Act was taken by the society only on 20-9-1993 in spite of the fact that the canteen has been functioning since 1967. For long 26 years the canteen employees were being engaged by the society without licence. Does it not mean that the company did not intend the society to take contract labour for the canteen? The society is projected as a contractor to avoid liability and financial commitments to canteen workers. At the same time the company wants to see that the statutory obligation u/s 46 of Factories Act and Rules 91 to 97 of Factories Rules is discharged. No doubt, there is some statutory obligation for the factory, like providing building equipment, furniture, equipments, checking the quality of food etc. But in this case the company has not stopped there, but something more is done. That virtually extends to doing everything for the canteen. The staff of the canteen are treated like employees of the company. They have been working from the very inception of the canteen in 1967. There is no change of contractor. The strength of workers has never decreased, but only increased in course of time. The need for canteen is perennial in nature and consequently the need for workers is continuous and permanent.

39. It is contended by the union that canteen workers are paid by company. If they are paid by society, such payment should find a place in the accounts of the society. However, the audit report and the profit and loss account of the society till the year 2000 do not take in the salary and allowances paid to canteen employees. Ext. W2 is Notice of Annual General Body Meeting, 1987 with profit and loss account for the year 1987-88. Ext. W2 (a) is notice of Annual General Body Meeting, 1989 with profit and loss account for the year 1989-90. Ext. W2 (b) is notice of Annual General Body Meeting, 1997 with profit and loss account for the year 1996-97. They do not show payment of salary to canteen employees. In Ext. W2 under the head 'Salaries & Staff benefits' an amount of Rs. 1,00,200 is shown. But that cannot be the salary and allowances of canteen employees because their salary would amount to lakhs per year. It is the salary and benefits of society staff. Same is the case in Ext. W2(a). In Ext. W2(b) in the profit and loss account for the year 1996-97 salary is included in the head 'Establishment Express'. The amount is Rs. 2,58,000. That also pertains to the society staff, not canteen staff. For the following year 1997-98 the amount under the head

'Establishment Expenses' is Rs. 2,74,000 which also pertains to the staff of society and not canteen staff. Ext. W41, similar notice of Annual General Body Meeting of 2000, relied on by the learned counsel for the union is in respect of credit society (Reg. No. 213) and not consumer society (Reg. No. 226). Ext. M26 is notice of Annual General Body Meeting of 2004. In the said meeting the audit report and statement of accounts for the period from 1-4-1999 to 31-3-2001 were considered. The summary of profit and loss account for the year 1999-2000, 2000-01 and 2004-05 is shown. Salary of employees is included under the head 'Establishment'. For the year 1999-2000 establishment expense is Rs. 80,44,574 ps. 53. For the year 2000-01, the amount is Rs. 87,42,865 ps. 48. For the year 2004-05, the amount is Rs. 1,60,00,000. Thus from the year 1999-2000 onwards the salary of canteen employees is included under the head 'Establishment'. The account were audited by the Department of Cooperative Societies. Ext. M 27 is the Audit Certificate and audit memorandum regarding audit of the accounts of society for the year 2001-02. The profit and loss account of the year 2001-02 is shown in page 6 and 7 of Ext. M27. There the establishment expense (Establishment Expenses) is item No. 6 at page 7. Ext. M27 (a) is Audit Certificate and audit memorandum regarding the year 2002-03. Item No. 6 at page 7 of Ext. M27 (a) is establishment expense. It is to be noted that it is from year 1999-2000 onwards the society started including the salary of canteen employees in their account. The audit report of Cooperative Department prior to the year 2000 is not produced by the management. Whereas Ext. W2 series produced by union and referred above show that the salary of canteen workers was not shown in Society's account till 1999-2000. This change in accounting salary in society's account assumes importance and can be taken only as an afterthought. It is yet another instance to show that since salary and allowances of canteen workers were paid and accounted by the company the society did not think it proper or necessary to include it in Society's Account. Probably by the year 2000 the management might have realized that the lacuna in the accounts of society may boomerang. That is why there was change in the mode of accounting salary.

40. Ext. W4 is a letter of the President of Society referring a dispute of Canteen Employees' union to Assistant Labour Commissioner (Central). It is mentioned that right from the very beginning canteen is run by society on behalf of Cochin Refineries Ltd. Again it is stated that though the society is the appointing authority of canteen employees, manpower, salary and other benefits of these employees are decided by CRL only and society is only recommending authority as far as canteen matters are concerned. The society has no objection in regularizing the canteen employees to CRL folder. This statement of the society goes a long way in support of the case of the

union that the real employer is the company and society is only a camouflage and a screen to shield the company (emphasis supplied).

41. Ext. W40 is a notification in the Gazette under Rule 91(1) of Kerala Factories Rules, 1957 notifying factories coming within the provisions of Rule 91 to 97 of Factories Rules. Sl. No. 64 in Ext. W40 is CRL. This notification was issued on 27-10-2000. The canteen was started in 1967. Thus for the last 33 years the canteen has been functioning without any statutory obligation (Rules 91 to 97 of Kerala Factories Rules) on the part of company. Though the Rules came into force in 1957 the company figured in the notification only in 2000. Till then the company had no statutory obligation to provide canteen building, furniture, utensils, equipments, subsidy for the food, or to check quality of food, or to conduct medical check up of canteen workers etc. Despite that the company entered into an agreement with the society by Ext. M8 in 1974 to provide all the facilities mentioned in the Kerala Factories Rules and much more for running the canteen. If thus, without statutory obligation the company has volunteered to provide all facilities for the canteen it is needless to say that to all intents and purposes the company has been running the canteen and society is only an agent at the disposal of the company. The learned counsel for the management harped on the statutory obligations of the company to provide facilities and finance for the canteen, which according to him is in no way an act of control by the company. Be it so, still the company can take shelter under Factories Rules and say that it is its obligation to provide facilities to the canteen, only from the year 2000 onwards. Prior to that, I would say at the risk of repetition that, there was no such statutory obligation (as CRL was not a notified factory). But the company volunteered to do everything for the canteen. Assuming that from the very beginning there was statutory obligation for the company to provide all facilities mentioned in the statute, still only to that extent the company can say that it is not exercising control. However, the important consideration is who actually controls and supervises the canteen by reason of statutory obligation or otherwise. If the statute provides that everything has to be done for the purpose of running the canteen by the company then there may not arise a situation where the company may exercise any control at all. If the company chooses to entrust the job of running the canteen to a contractor they cannot take protection under the statute and say that we are doing nothing by ourselves for the canteen, but we are made to do so by the statute. So far as this case is concerned over and above the statutory obligations the company is exercising effective control and doing everything from root to the shoot for the canteen. The canteen workers are treated like workers of the company. Though their pay is not that low, allowances, other benefits, retiring age etc. are not on a par with employees of the company.

42. Lastly there was a feeble attempt by the learned counsel for the management to say that a plea regarding the nature of the contract is lacking in the claim statement of the union. According to him it is in very few words that it is pleaded that the society is only a name-lender of the company. The learned counsel relied on a decision to support his contention which is reported in 1999-I L.L.J. 1028 (Municipal Committee, Tauru V/s. Harpal Singh & Anr.). This was a case in which the employee had taken an inconsistent stand before the labour Court in the claim statement and in evidence. This decision has no bearing to the contention put forward by the learned counsel for the management, which is one of lack of pleadings. I think that the plea that the society is only a name-lender of the company is sufficient to say that the arrangement between the two managements is sham. The parties have also led evidence keeping this issue in mind.

43. In the light of the overwhelming evidence and circumstances discussed above I find that the contract between the company and the society is sham and a camouflage to shield the company from financial commitments. I also find that the union is competent to espouse the cause of canteen workers. I also hold that the canteen employees are in effect and substance, the employees of the company and are entitled to be absorbed in the first management company (CRL).

44. Point No. (3) : (See Award portion)

45. In the result, an award is passed finding that the canteen employees are to be treated as employees of first management company and directing the first management company (CRL) to absorb them in appropriate categories. In doing so the rules of the 1st management with regard to qualification and age for recruitment have to be relaxed as the canteen workers have put in long years of service. The award will take effect one month after its publication in the official Gazette.

Dictated to the personal Assistant, transcribed and typed by her, corrected and passed by me on this the 2nd day of August, 2006.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Union :

WW1 : T.K. Poullose.

Witness for the Management :

MW1 : S. Vijayakumar

MW2 : C.V. Venu

Exhibits for the Union :

W1 : Copy of Bye-laws of Cochin Refineries Employees consumer Co-op. society Ltd.

W2 : Copy of notice of Annual General Body meeting of the society dated 5-12-1987.

- W2(a) : Notice of Annual General Body meeting of the society dated 18-12-1997.
- W2(b) : Notice of Annual General Body meeting of the society dated 6-12-1997.
- W3 : Copy of canteen subsidy dated 3-4-2000 prepared by CRL.
- W4 : Copy letter dated 19-8-1996 by the President of Society to ALC (C).
- W5 : Photocopy of leave authorization dated 27-10-1977 issued by K.R.L.
- W5 (a) : Photocopy of application of leave of K.S. John and leave authorization dated 27-9-1980.
- W6 : Photocopy of medical reimbursement authorization dated 30-11-1992 to K.R. Santhosh.
- W7 : Photocopy of medical benefit plan—settlement of claim dated 17-11-1998 in r/o Shri A.K. Aboobaker.
- W7 (a) : Photocopy & medical benefit plan—settlement of claim dated 14-4-1993 in r/o Shri V.G. Shaji.
- W8 : Photocopy of application dated 24-9-1993 for incentives for adopting permanent family planning measures in r/o Shri C.K. Aravindakshan.
- W8 (a) : Photocopy of application dated 3-7-1995 for incentives for adopting permanent family planning measures in r/o Shri N.B. Sajeevan.
- W9 : Photocopy of authorization letter from the medical officer of CRL to the canteen.
- W9 (a) : Photocopy of authorization letter dated 16-6-1993 in r/o canteen staff from the medical officer of CRL to the canteen.
- W10 : Photocopy of request dated 13-12-1993 made by General Manager (HRM), CRL to the Indian Oil Corporation Ltd. regarding LPG connection.
- W10 (a) : Photocopy of order dated 30-6-1993 from the Area Manager of the IOC Ltd. to the LPG agencies regarding priority connection to the employees of CRL.
- W11 : Photocopy of a confirmation statement of Shri K.P. Subramanian dated 10-11-81 recovered by CRL regarding Indane connection.
- W11 (a) : Photocopy of a confirmation statement of Shri S. B. Venjamin recovered by CRL dated 10-11-1981 regarding Indane connection.
- W12 : Photocopy of request for bus for picnic by Shri K.M. Babu to the K.R.L. dated 31-10-1996.
- W13 : Photocopy of letter dated 28-7-1997 to the Society by Shri Alexander Itoop, Badge No. 873.
- W14 : Photocopy of letter dated 6-12-1988 from General Manager (Personnel & Administration), KRL to Shri N.B. Sajeevan, a canteen boy to attend Inhouse Training Program.
- W14 (a) : Photocopy of letter dated 9-12-1988 from Deputy Manager (Training & Administration), CRL to Shri C.K. Aravindakshan, canteen boy to attend Inhouse Training Program.
- W15 : Photocopy of certificate of merit given to Shri K.J. Ajayaghosh by CRL for completing CRL cross country race.
- W16 : Photocopy letter dated 1-2-1993 from Sr. Manager (Pub. Relations) to Shri Jayan. CRECCS to provide photos for publishing in the periodical 'Jaladwani'.
- W17 : Photocopy of DBC release order dated 22-4-1994 by the Cochin Refineries Ltd. in r/o Shri C.P. Varghese.
- W18 : Photocopy of advertisement issued by the Cochin Refineries Ltd. regarding requirement of Catering Officer.
- W19 : Photocopy of letter dated 30-9-1994 from President of the Society of CRL.
- W20 : Photocopy of Notice dated 5-10-1999 by the Chief Manager (HRD & IR) KRL to the Principal of the School and Canteen Manager regarding test.
- W21 : Photocopy of letter dated 6-8-92 from Sr. Manager (A&W) to the Society.
- W22 : Photocopy of letter dated 20-7-1982 from President of the society to the Manager (Pers. & Adm.) CRL regarding additional manpower for canteen.
- W23 : Photocopy of letter dated 24-6-1991 from the society to CRL for wage revision of casual labourers working in the canteen.
- W24 : Photocopy of letter dated 14-7-1992 from CRL to the President of CRECCS Canteen Emp. Union regarding recruitment of casual labour in canteen.
- W24 (a) : Photocopy of letter dated 30-7-1966 from Catering Officer to CRL to return the van/jeep in canteen.
- W25 : Photocopy of request dated 24-9-1976 by Sr. Catering Officer to return the jeep to the canteen.

- W26 : Photocopy of Tender Notice dated 21-7-1999 by the Cochin Refineries Ltd.
- W27 : Photocopy of letter 9-11-1981 from the President of the society to CRL for enhancement of scooter allowance.
- W28 : Photocopy of forwarding letter dated 3-12-1992 by the President, CRECCS to Dir. (HRM), CRL forwarding application for loan in r/o canteen employees.
- W29 : Photocopy of decision packages for capital budget for 2000-01 for purchase of potato peeler, S.F. Double jacketed Steam Cooker, Split A/C and expansion of canteen dated 17-11-1990.
- W30 : Photocopy of request dated 4-6-1997 by the Sr. Catering Officer to CRL for purchase of a computer with printer for canteen.
- W31 : Photocopy of letter dated 2-8-1999 issued by the Chief Manager (Internal Audit) to Gen. Manager (HRM) & Gen. manager (P&D), Cochin Refineries Ltd.
- W32 : Photocopy of letter dated 5-6-1998 addressed to the Chief manager (HRD&IR) & Others by Sr. Catering Officer.
- W33 : Photocopy of letter dated 18-10-2000 by the Dy. Manager, Catering to Chief Manager (HRD&IR) & Others.
- W34 : Photocopy of note dated 29-3-1993 by Gen. Manager (HRM) regarding performance award for the financial year 1992-93.
- W35 : Photocopy of letter dated 24-11-1998 by the President of the society to General Manager (HRM) CRL.
- W36 : Photocopy of letter dated 8-6-1992 from Sr. Manager (A&W) to the society reg. union of canteen staff.
- W37 : Photocopy of letter dated 15-5-1995 from the President of the society to Gen. Manager (HRM), CRL reg. uniforms to canteen staff.
- W38 : Photocopy of requisition dated 26-11-1997 made by Asstt. Canteen Manager, CRL for approval of materials.
- W39 : Photocopy of letter dated 9-10-1967 from Personnel manager, CRL to Shri K.C. Krishnan Nair, Panchayat member.
- W40 : Photocopy of Kerala Gazette dated 27-10-2000.
- W41 : Annual Report dated 4-12-2000 in r/o the Kochi Refineries Employees Coop. Credit Society Ltd. for the year 1999-2000.

Exhibits for the Management :

- M1 : Bye-laws of the Cochin Refineries Employees Consumer Coop. Society Ltd. dated 23-4-1966.
- M2 : Photocopy of memorandum of Settlement dated 18-12-2003 between the management of CRECCS Ltd. and their workmen.
- M3 : Photocopy of license issued to the CRECCS Ltd. by M/o Labour, Govt. of India dated 20-9-1993.
- M4 : Photocopy of letter dated 28-8-1998 issued by the ALC(C) to the President, CRECCS Ltd.
- M5 : Photocopy of letter dated 11-11-1994 issued by the Jt. Registrar of Coop. Societies to the Secretary, CRECCS Ltd.
- M6 : Photocopy of election notification dated 17-11-1998 to the Director Board of CRECCS Ltd.
- M7 : Photocopy of letter dated 20-10-1997 addressed to the Refinery Manager by the President CRECCS Ltd.
- M8 : Copy of contract dated 24-5-1974 by the Refinery Manager to the President, CRECCS Ltd.
- M9 : Photocopy of election result dated 11-12-1998.
- M10 (Series) : Photocopy of newspaper cutting regarding applications invited for the post of Asst. Cook/Driver/Bearer/Canteen boy/Canteen Supervisor Trainee/Asstt. Manager, Catering etc. (4 items).
- M11 (Series) : Appointment orders dated 14-5-1976 in r/o P.P. Saseendran and Jayachandran issued by the President, CRECCS Ltd. (2 Nos.)
- M12 (Series) : Photocopies of various disciplinary proceedings initiated against the staff by the President, CRECCS Ltd. dated 5-12-1975 (5 Nos).
- M13 : Photocopy of strike notice dated 2-11-1991 by the Gen. Secretary, CRECCS Canteen Employees' Union to the President, CRECCS Ltd.
- M14 : Photocopy of letter dated 11-9-1995 issued by the Gen. Secretary, CRECCS Canteen Employees' Union to the President, CRECCS Ltd.
- M15 : Photocopy of memorandum of Settlement dated 3-3-1999 between the CRECCS Ltd. and CRECCS Employees Union.
- M16 : Photocopy of Memorandum of Settlement dated 5-3-1996 between the CRECCS Ltd. and CRECCS Employees Union.

- M17 : Photocopy of Memorandum of Settlement dated 23-7-1991 between the CRECCS Ltd. and CRECCS Employees Union.
- M18 : Photocopy of Memorandum of Settlement dated 27-11-1997 between the CRECCS Ltd. and CRECCS Employees Union.
- M19 : Photocopy of letter dated 11-9-1995 addressed to the President, CRECCS Ltd. by the Gen. Secretary, CRECCS Employees' Union.
- M20 : Memorandum of Settlement dated 12-6-1973 between CRECCS Ltd. and CRECCS Employees' Union.
- M21 : Photocopy of Charter of Demands.
- M22 : Photocopy of list of canteen employees as on 31-3-1996 and particulars as on August, 2001.
- M23 : Photocopy of Order No. H/2658/78 dated 29-3-1978 of the Dy. Registrar of Coop. Society (Gen.), Ernakulam.
- M24 : Photocopy of letter dated 18-9-1998 issued by the President, CRECCS Ltd. to the Gen. Manager (HRM), Cochin Refineries Ltd.
- M25 : Photocopy of Form No. 6A regarding Employees' Provident Fund Scheme, 1952 and Employees Pension Scheme 1995 of the CRECCS Ltd.
- M26 : Photocopy of Notice of the Annual General body meeting of the CRECCS Ltd. Dated 29-7-2004.
- M27 : Audit certificate dated 9-2-2005 issued by the Coop. Deptt.
- M27 (a) : Audit memorandum dated 30-3-2006 issued by the Coop. Management.

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3660.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 2/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/106/2002-आई आर (सी एम-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3660.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 2/2003) of the Central Government Industrial Tribunal-cum-Labour

Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Newton Sub Area of Western Coalfields Ltd. and their workman, which was received by the Central Government on 18-8-2006.

[No. L-22012/106/2002-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI A. N. YADAV, PRESIDING
OFFICER, CGIT-CUM-LABOUR COURT,
NAGPUR**

Dated : 7-8-2006

Case No. 02/2003

The C.M.E., Newton Sub Area of WCL, PO. Parasia,
Distt. Chhindwara.

Versus

The Secretary, R.K.K. M.S. (INTUC), PO. Chandametta,
Distt. Chhindwara (M.P.)

AWARD

1. The Central Government after satisfying the existence of disputes between the Secretary, R.K.K.M.S. (INTUC), PO. Chandametta, Distt. Chhindwara, Party No. 2 and Newton Sub Area of WCL, Party No. 1 referred the same for adjudication to this Tribunal vide its letter No. L-22012/106/2002-IR(CM-II) dt. 8-10-2002 under clause D of sub section 1 and sub-section (2A) of Section 10 of ID Act with the following schedule :

SCHEDULE

“Whether the action of the management of Newton/ Ganpati Mine of WCL, Pench Area P.O. Newton Chickli, Distt. Chhindwara (MP) in not correcting the date of birth of Shri Keshav Prasad S/o Shri Birjoo Choukidar as 6-12-1949 as per School Leaving Certificate is legal and justified? If not, to what relief the workman is entitled to?”

The dispute came here for hearing on 9-5-2006 on which both the parties and their counsels were absent. The perusal of record indicates that the applicant Keshav Prasad S/o Birjoo Choukidar has raised the dispute through union Rashtriya Koyla Khadan Mazdoor Sangh (INTUC). He had alleged that the management is not correcting his date of birth on the basis of School Leaving Certificate. According to him his date of birth was 6-12-1949. It appears that the applicant appeared in response to the summons of the Court through union. Similarly a counsel Shri Sashidharan was engaged by the management. However right from the date of filing nobody of either side appeared before the Court. It also seems that the petitioner or his union also did not bother to file Statement of Claim. Consequently though more than three years are elapsed, the progress of the case is withheld. Since the Petitioner or his union has not taken care even of filing a statement of

claim, a legal inference will have to be drawn that he is not interested at all. I do not find any reason to continue the claim without any progress and particularly when there is implied indication that the applicant is not interested in continuing it. Hence it is disposed of for default of the petitioner. It stands as dismissed. Hence this Award.

A.N. YADAV, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3661.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 116/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/147/2001-आई आर (सी एम-II)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3661.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 116/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Ballarpur Sub Area of Western Coalfields Ltd. and their workman, which was received by the Central Government on 18-8-2006.

[No. L-22012/147/2001-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV, PRESIDING OFFICER

Dated : 7-8-2006

Case No. 116/2002

The Chief General Manager, W.C.L. Ballarpur Area, Distt. Chandrapur (M.S.)

Versus

The Jt. General Secretary, Rashtriya Koyla Khadan Mazdoor Sangh (INTUC), Office-Plot No. 604, Behind Giripeth Post Office, Opp. RTO, Nagpur-10.

AWARD

1. The Central Government after satisfying the existence of disputes between The Jt. General Secretary, Rashtriya Koyla Khadan Mazdoor Sangh (INTUC), Party No. 2 and The Chief General Manager, W.C.L. Ballarpur Area, Party No. 1 referred the same for adjudication to this Tribunal under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of ID Act vide order No. L-22012/147/2001 IR (CM-II) dt. 13-5-2002 with the following schedule :

SCHEDULE

“Whether the action of the management in stopping from duty of Shri Vijay Sambhaji Lande w.e.f. 29-8-1996 without mentioning any reason vide their office order No. WCL/BA/SAM/4018 dt. 29-8-1996 was legal and justified? If not, to what relief the said workman is entitled to?”

In response to the notice of the Tribunal, both the parties appeared before the Court and submitted the Settlement dt. 2-6-2006. Along with it the Union Rashtriya Koyla Khadan Mazdoor Sangh (INTUC) filed an application. On behalf of the management Area Personnel Manager, WCL, Ballarpur Area, PO. Sasti. Distt. Chandrapur has also signed it requesting to pass a consent Award as per settlement. The terms of the settlement are as follows :

1. It is mutually agreed that Shri Vijay S. Lande will be allowed on duty as a General Mazdoor Cat. 1 on submission of settlement before CGIT, Nagpur.
2. It is mutually agreed that no back wages or any consequential benefit will be given to Vijay S. Lande for the period of absence i.e. from 29-6-1996 to the actual date of joining the duty at the place of posting.
3. It is mutually agreed that Shri Vijay S. Lande will be given continuity of service for the purpose of calculation of gratuity amount only.
4. It is mutually agreed this is full and final settlement of the above dispute and Shri Vijay S. Lande will not raise any dispute whatsoever before any statutory forum/Court of law/Govt. machinery/ Non Statutory Forum in this matter either by himself or through Trade Union.
5. This agreement will be binding upon the workman as well as the union and treated as a full and final.
6. It is mutually agreed that Shri Vijay S. Lande or Trade Union will treat this case as precedence in any other case in future.
7. It is also agreed that Shri Vijay S. Lande and the union and management will file jointly this settlement before CGIT, Nagpur with a request to pass a consent Award in the terms of settlement.

Since both the parties have filed the settlement and the union has also filed the same along with the application, indicates that it is their voluntary settlement between the management and the union. In such circumstances there are no reasons to refuse to pass the consent award. Accordingly with the above terms I pass the consent Award and now there are no disputes in this regard. Hence this Award.

A.N. YADAV, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3662.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 188/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/4/2001-आई आर (सी एम-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3662.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 188/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Western Coalfields Ltd. and their workmen, which was received by the Central Government on 18-8-2006.

[No. L-22012/4/2001-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER

Case No. 188/2002

Dated: 21-7-2006

The General Manager, W.C.L. Pench Area

Versus

The General Secretary, R.K.K. M.S. (INTUC), PO.
Chandameta, Distt. Chhindwara.

AWARD

1. The Central Government after satisfying the existence of disputes between The General Secretary, Bhartiya Koyla Khadan Mazdoor Sangh, Party No. 2 and The General Manager, W.C.L. Pench Area, Party No. 1 referred the same for adjudication to this Tribunal under clause G sub-section 1, Section 10 of ID Act with the following schedule.

“Whether the action of the Sub Area Manager, Newion sub Area of WCL, Pench Area, P.O. Parasia, Distt. Chhindwara (MP) in terminating the services of Shri Sadanand, Tub loader of Gajandoh Colliery of WCL, Pench Area w.e.f. 19-9-98 is legal and justified? If not, to what relief he entitled to?”

I have gone through the records, nobody is present. The Party No. 2 through its Mahamantri Shri Bhattacharya filed an application informing that Sadanand, in whose regard the dispute was raised has been died and therefore

the disputes should be closed. No body is appearing though more than four years have been lapsed and no body has even filed a Statement of Claim which indicates that they are not interested in persuading the case. Hence it is disposed of for want of prosecution. Hence this Award.

A.N. YADAV, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3663.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 57/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/184/2003-आई आर (सी एम-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3663.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 57/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfield Limited, and their workmen, which was received by the Central Government on 18-8-2006.

[No. L-22012/184/2003-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV, PRESIDING OFFICER

Case No. 57/2004

Dated: 21-7-2006

The General Manager, W. C. L., Pench Area

Versus

The General Secretary, Bhartiya Koyla Khadan Mazdoor Sangh, Office : Vishwakarma Bhawan, P. O. Parasia, Chhindwara

AWARD

The Central Government after satisfying the existence of disputes between the General Secretary, Bhartiya Koyla Khadan Mazdoor Sangh, Party No. 2 and the General Manager, W. C. L., Pench Area, Party No. 1 referred the same for adjudication to this Tribunal under clause G sub-section 1, Section 10 of ID Act with the following schedule :

“Whether the action of the General Manager, Western Coalfields Ltd., Pench Area, P. O. Parasia,

Distt. Chhindwara, MP, in not conferring the permanency on Shri Babulal Jaiswal, who is the Steno Typist working from one year in the Clerk Gr.-2 is legal and justified ? If not, to what relief he is entitled ?”

In response to the notices of the Tribunal, both the parties appeared before the Court and submitted the Settlement dt. 2-4-2005. Along with it the Union Bhartiya Koyla Khadan Mazdoor Sangh filed an application requesting to pass a consent Award as per settlement. The terms of the settlement are as follows :

- (1) It is agreed that as Committee after going through the records and found Shri Babulal suitable for the regularization as Clerk in Clerical Grade-III.
- (2) It is agreed that Shri Babulal after new place will be regularized as Clerk in Clerical Gr. III. His regularization will be effective on joining as clerk and there will be no claim of wages whatsoever for his regularization.
- (3) It is agreed that the BKKMS Union, Vishwakarma Bhawan, Parasia and Person concerned withdraw all the cases under any jurisdiction i.e., CGIT, Jabalpur or any Hon'ble Court/High Court.
- (4) This settlement will be full and final and there will be no claim in this regard in future and should be treated as closed.

Since both the parties have filed the settlement and the union has also filed the same along with the application, indicates that it is their voluntary settlement between the management and the union. They have given the regularization with the certain conditions like withdrawing the cases against them. Even from the first date after filing the copies of the settlement, nobody on the either side is attending the Court which indicates that they are even acting as per the above conditions. In such circumstances there are no reasons to refuse to pass the consent award. Accordingly with the above terms I pass the consent Award and now there remain no disputes in this regard. Hence this Award.

A. N. YADAV, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3664. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्लू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 153/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/441/1993-आई आर (सी-II)]

अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3664.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 153/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 18-8-2006.

[No. L-22012/441/1993-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

**BEFORE SHRI A. N. YADAV, PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR**

Case No. 153/2002

Dated : 7-8-2006

**The Mines Manager, Walni Mines of WCL, PO Walni,
Distt. Chhindwara**

Versus

**Shri Anbar Shah, Vill. Palasar, PO Palasar, Distt.
Chhindwara (M. P.)**

AWARD

The Central Government after satisfying the existence of disputes between Shri Anbar Shah, Party No. 2 and Walni Mines of WCL, Party No. 1 referred the same for adjudication to this Tribunal vide its letter No. L-22012/441/1993-IR(C-II), dt. 21-4-1994 under clause D of sub-section 1 and sub-section (2A) of Section 10 of the ID Act with the following schedule :

“Whether the action of the management of Walni Colliery of WCL in dismissing Shri Anbar Shah from service w.e.f. 16-9-1992 is legal and justified ? If not, to what relief the concerned workman is entitled to ?”

The claim was posted for hearing on 9-6-2006. No body was present for the applicant or the applicant himself was not present. On behalf of management also no body appeared. It seems that the applicant and the counsel for the management had appeared before the Tribunal at Jabalpur. Consequent upon the establishment of this Tribunal the dispute was transferred to Nagpur. Notices were issued by this Tribunal directing the petitioner to attend the Court. However the notices were returned due to the want of complete address. The notices were issued to the petitioner on the address given in the order of referring the dispute to this Tribunal by the Ministry of Labour and Employment. Hence as no body is appearing, there is no other go than to dismiss for default of the petitioner. Hence it is dismissed for default and this award.

A. N. YADAV, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3665.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 24/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/44/2003-आई आर (सी-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3665.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of CCCL and their workmen, which was received by the Central Government on 18-8-2006.

[No. L-22012/44/2003-IR (C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV, PRESIDING OFFICER

Case No. 24/2003

Dated: 21-7-2006

The Dy. General Manager, Central Collieries Company Ltd., 5, Temple Road, Civil Lines, Nagpur

Versus

The President, Sanghatith Asanghatith Mazdoor Union, C/o Sh. Afhajalabhai House, Chandrapur, Nagpur Highway Road, Petrol Pump, Bhadravati, The Bhadravati, Distt. Chandrapur

AWARD

The Central Government after satisfying the existence of disputes between the employers in relation to the Management of Central Collieries Company Ltd. and their Workmen, referred the same for adjudication to this Tribunal under clause (d) of sub-section (1) of sub-section (2A) of Section 10 of ID Act with the following schedule :

“Whether the demand of the Sangathith Asangathith Mazdoor Union from the management of the Central Collieries Company Limited to discuss and implement the following demands in respect of the workmen employed by the company is justified, fair and legal? If so, to what relief are the workmen entitled and from what date?”

Along with the schedule the list of 17 (seventeen) demands is appended. On receipt of the disputes in response of the notices Advocate Kakani, for the Management and Advocate S. K. Urade appeared for the Union on 20-3-2003. Subsequently till today i.e. 21-7-2006, nobody appeared from either of them or the parties in person. It seems that they both are not interested in prosecuting the case. Hence it is disposed of for the default of both the parties, Management and the Union for want of prosecution. Hence this Award.

A. N. YADAV, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3666.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 189/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-8-2006 को प्राप्त हुआ था।

[सं. एल-22012/89/2001-आई आर (सी एम-II)]
अजय कुमार गौड़, डैस्क अधिकारी

New Delhi, the 18th August, 2006

S.O. 3666.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 189/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Nagpur as shown in the Annexure in the Industrial Dispute between the management of Ambara Sub Area of WCL, and their workmen, which was received by the Central Government on 18-8-2006.

[No. L-22012/89/2001-IR (CM-II)]
AJAY KUMAR, GAUR, Desk Officer

ANNEXURE

BEFORE SHRI A. N. YADAV PRESIDING OFFICER,
CGIT-CUM-LABOUR COURT, NAGPUR

Case No. 189/2002

Dated: 7-8-2006

The Sub Area Manager, Ambara Sub Area of W. C. L., P. O. Palachourai, Distt. Chhindwara (M. P.).

Versus

The Regional Secretary, R. K. K. M. S. (INTUC), PO, Chandametta, Distt. Chhindwara (M. P.).

AWARD

The Central Government after satisfying the existence of disputes between the Regional Secretary,

R. K. K. M. S. (INTUC), PO, Chandametta, Distt. Chhindwara, Party No. 2 and Ambara Sub Area of WCL, Party No. 1 referred the same for adjudication to this Tribunal vide its letter No. L-22012/89/2001-IR (CM-II), dt. 23-10-2002 under clause D of sub-section 1 and sub-section (2A) of Section 10 of ID Act with the following schedule :

“Whether the action of the management of WCL, Kanhan Area, PO. Ambara, Distt. Chhindwara in not regularizing Shri Sumeru as Cat. IV from 1-1-1999 and not paying difference of wages from 1-1-1998 is legal and justified ? If not to what relief the workman is entitled to ?”

The reference came for hearing before the Tribunal on 9-5-2006. On that day no body was present on behalf of management as well as of applicant/petitioner. The record indicates that the applicant did not file any Statement of Claim though the case was fixed for the same since the beginning of the dispute. It appears that he is not interested in attending the Court as well as taking any further steps. He has sought regularisation in the claim along with difference of wages. I do not find any reason to continue the claim when petitioner himself is not attending the Court since 2003 i.e. right from the starting of the case. Hence it is disposed of for default of the applicant. It stands as dismissed. Hence award.

A. N. YADAV, Presiding Officer

नई दिल्ली, 18 अगस्त, 2006

का. आ. 3667.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पुणे के पंचाट (संदर्भ संख्या 87/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-8-2006 को प्राप्त हुआ था।

[सं. एल-12012/322/95-आई आर (बी-II)]
सी. गंगाधरण, अवर सचिव

New Delhi, the 18th August, 2006

S.O. 3667.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 87/1996) of the Industrial Tribunal, Pune as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vijaya Bank and their workmen, which was received by the Central Government on 17-8-2006.

[No. L-12012/322/95-IR (B-II)]
C. GANGADHARAN, Under Secy.

ANNEXURE

**BEFORE SHRI P. E. HAVAL, PRESIDING OFFICER,
SECOND LABOUR COURT, PUNE**

Reference L. D. A. No. 87 of 1996

BETWEEN:

C. M. D. Vijaya Bank,
Head Quarter, 41/2, M. G. Road,
Mangalore-560001 ... First Party

AND

G. S. Vijaya Bank Workers Orgn.,
Arora Towers, Pune-1 ... Second Party

CORAM

Shri P. E. Haval.

APPEARANCES:

Shri D. V. Kulkarni, Advocate for 1st Party.

Shri S. B. Malegaonkar, Advocate for 2nd Party.

PART-I AWARD

(Date : 6-4-2005).

1. The office of Desk Officer, Central Government has referred this reference for adjudication under Sec. 10, Sub-sec. 2A r/w Clause (d), Sub-sec. (1) of Industrial Disputes Act, 1947 for adjudication of industrial dispute between M/s. C. M. S. Vijaya Bank (hereinafter referred to as first party) and G. S. Vijaya Bank Workers Orgn. (hereinafter referred to as second party) mentioned in Schedule which reads as under :

SCHEDULE

Whether the action of the management of Vijaya Bank, Bangalore/Pune in imposing the penalty of stoppage of one increment permanently on Shri P. S. Thorat, Stenographer, Pune Regional Office is legal and justified ? If not, what relief is the said workman entitled to ?

2. Second Party filed Statement of Claim in pursuance of notice. The case of second party is as under :

Shri P. S. Thorat, Stenographer was served with a chargesheet dated 26-6-92 in respect of alleged incident dated 20-12-91 and another chargesheet dated 14-8-92, alleging one item of misconduct arising out of the same incident. These chargesheets were followed by an enquiry which was commenced on 23-3-92 and completed the same day resulting into a finding of guilt of the second party, Shri Thorat and imposition of the punishment of stoppage one increment, which has been confirmed in departmental appeal by the appellate authority. The second party union at all stages below alleged that the penalty

imposed on Shri P. S. Thorat, the Stenographer was unjust, unjustified, unfair, mala fide and illegal. The replies to the chargesheets were not considered at all. Even a passing perusal of the chargesheet would reveal that these chargesheets are issued with an ulterior motive. Both the chargesheets are of vindictive nature and they have been issued to harass and victimize the stenographer. The charges appear to be the intentional result of concocted and twisted story of the incidence. The chargesheets are issued after about seven and eight months of the date of alleged incidents. The chargesheets are vague. Both the chargesheets relate to the same and one alleged incident, however, they bear different dates. This all against the principles of natural justice.

3. First party resisted claim of second party by filing Written Statement at Exh. 16. The case of first party is as under :

The dispute appears to be in the name of Vijaya Bank Workers Organization. The statement of claim has been verified and signed by workman Shri P. S. Thorat in his individual capacity. The dispute appears to be between the workman and the bank. Therefore, it is individual dispute. It is not an industrial dispute. Hence, this Court has no jurisdiction or authority to entertain the reference or adjudicate upon the same. It is true that enquiry into the chargesheet dated 23-3-93 that is after 13 months from the date of alleged incident, the enquiry report was submitted by enquiry officer on 10-6-1993 i.e. two and half months after date of completion of enquiry. This also shows that enquiry officer was not in hurry to find second party guilty, he submitted the report after considering the evidence. Assuming without admitting that the witnesses were interested. It is the duty of union/workman to impeach the credibility of witness during the cross-examination in the absence of such attempt the evidence becomes reliable and acceptable on 20-12-91 at about 10.40 a.m. Shri Thorat abused Shri Ganesh Shetti, Manager, R/o Pune in bank premises in the presence of other staff members as under :

You bloody, how dare you to use my name in your reply to the explanation to DM. I will teach you a lesson soon.

On the same day, the workman left the office at about 10.45 a.m. for lodging police complaint against Shri Ganesh Shetti without obtaining permission. He returned to office only in after noon. First party therefore framed charges First party therefore, issued separate chargesheets. The workman submitted written statement dated 6-8-1992. As reply was not satisfactory, departmental enquiry was conducted on 23-3-93. Seven documents were produced and 4

witnesses were examined on behalf of the management and were cross-examined by second party. One witness was examined by the defense, but no document was produced by the workman. Workman was represented by Trade Union Leader. The fact that enquiry was conducted/completed on the very same day does not vitiate the enquiry. Enquiry proceedings clearly indicates that enquiry officer has conducted the enquiry in proper and fair manner.

4. Considering rival claims of parties, issues are framed at Exh. 34 with note that issue no. 1 is to be tried as a preliminary issue and my finding thereon is as under :

ISSUE

FINDING

Whether the enquiry held against second party is fair and proper ?

Yes

5. My reasoning to the above said finding is as under :

REASONS

6. Preliminary Issue : Advocate Shri S. B. Malegaonkar appearing for second party filed pursis at Exh. 39 as under :

The second party accepts the procedure of enquiry to be fair, except the findings.

7. The burden to show that departmental enquiry is not legal, fair and proper is on second party workman. As the second party workman has filed pursis as stated above, second party has failed to discharge such burden.

8. The two chargesheets, enquiry proceedings and enquiry report are filed by second party under list Exh. 12. On going through the enquiry proceedings, it can be seen that principles of natural justice are not violated. The chargesheets are received by second party workman, second party has understood and filed reply, second party participated in the enquiry proceedings and second party workmen cross-examined witnesses of management and the documents were supplied to second party. On going through the chargesheets, it can be seen that the chargesheets are self explanatory. As a result, I find that enquiry conducted against concerned workman Shri P. S. Thorat is legal, fair and proper and the principles of natural justice are not violated. I, therefore, answer the issue accordingly and proceed to pass following order :

ORDER

It is hereby declared that the enquiry conducted against concerned workman Shri P. S. Thorat of second party union is legal, fair and proper and is in accordance with the principles of natural justice.

Place : Pune.

Date : 6-4-2005

P. E. HAVAL, Presiding Officer

नई दिल्ली, 22 अगस्त, 2006

का. आ. 3668.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्डनेन्स फैक्ट्री के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सी जी आई टी/एल सी/आर/125/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-8-2006 को प्राप्त हुआ था।

[सं. एल-14012/13/95-आई आर (डी यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 22nd August, 2006

S.O. 3668.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT/LC/R/125/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Ordnance Factory and their workmen, which was received by the Central Government on 22-8-2006.

[No. L-14012/13/95-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Case No. CGIT/LC/R/125/96

Shri C. M. Singh, Presiding Officer

Shri Frank Peter,
Peter's Quarter,
Bengali Colony,
Ranjhi, Jabalpur

... Workman/Union

Versus

The General Manager,
Ordnance Factory,
Khamaria, Jabalpur

... Management

AWARD

Passed on this 18th day of July, 2006

1. The Government of India, Ministry of Labour vide its Notification No. L-14012/13/95-IR (DU) dated 30-5-96 has referred the following dispute for adjudication by this tribunal :

“क्या प्रबंधन महाप्रबंधक, आर्डनेन्स फैक्ट्री, खमरिया जबलपुर (म. प्र.) के प्रबंधकों द्वारा श्री फ्रेन्क पीटर की सेवायें समाप्त किये जाने की कार्यवाही न्यायोचित है ? यदि नहीं, तो कर्मकार किस अनुतोष का हकदार है ?”

2. The case of workman Shri Frank Peter in brief is as follows. He was initially appointed as Labour “B” Grade in the year 1982 at Ordnance Factory, Khamaria, Jabalpur. He was served with charge sheet dated 14-2-85 under Rule 14 CCS (CCA) Rules, 1965, primarily alleging the charge of quarreling, abusing and physically assaulting superior staff. After conducting the enquiry, the Enquiry Officer submitted an exonerative report. The Disciplinary Authority i.e. the General Manager, Ordnance Factory Khamaria without assigning any reason disagreed with the exonerative findings of the Enquiry Officer and for reasons extraneous to the material on record arrived at finding of guilt by order dated 2-1-91 by which the workman was inflicted with the punishment of dismissal from service. The dissent findings i.e. the written reasons of the Disciplinary Authority in disagreeing with the exonerative findings of the Enquiry Officer were not supplied to the workman prior to the passing of dismissal order. The dissent findings were supplied to him along with the dismissal order dated 2-1-91. Aggrieved by the said dismissal order, an appeal was preferred which was also dismissed by order dated 21-4-92 by the Chairman, Ordnance Board, Calcutta (W.B.). The workman challenged the dismissal order and the order of rejecting the appeal on the following grounds :

- (a) The order of dismissal is vitiated on the ground of being violative of rules of natural justice. Once the Enquiry Officer had arrived at the exonerative finding it was incumbent upon the Disciplinary Authority to supply the workman with the copy of reasons for disagreeing with the exonerative findings, so that the workman could represent against the dissent findings of the Disciplinary authority and thereby avail off the opportunity of convincing the Disciplinary Authority of the validity of exonerative findings.
- (b) Though the dissent findings were supplied to the workman along with the dismissal order but the exonerative report of the Enquiry Officer has not been supplied to till date which is violative of the rules of natural justice.
- (c) The enquiry in question was the case of no evidence since none of the prosecution witnesses except the complainant themselves i.e. Shri S. C. Roy and Shri Holaram have deposed against the workman. Since there is no corroboration to the statement of the complainants, their statements cannot be placed reliance upon.
- (d) The Disciplinary Authority while disagreeing with the exonerative findings of the Enquiry Officer has placed reliance on hearsay evidence which is not acceptable in law.
- (e) Principles of natural justice have been further violated as the workman was not supplied with

the copies of order sheets on which the proceedings of enquiry were recorded.

- (f) Another ground taken by the Disciplinary Authority to disagree with the findings of the Enquiry Officer is that despite one Shri Narendra Kumar (PW-IV) having stated that during the enquiry, register was also shown, the Enquiry Officer in his finding has wrongly arrived at the conclusion that no register was produced during the enquiry. This reasoning disclosed non-application of mind on the part of the Disciplinary Authority. From the record, it is evident that the register being quoted by the Disciplinary Authority was produced at the stage of preliminary enquiry which was conducted prior to issuance of charge-sheet.

3. It has been prayed by the workman that for the reasons mentioned above, the dismissal of the workman dated 2-1-91 and the rejection of appeal by order dated 21-4-92 be held invalid and be set aside and as a necessary consequence, the workman be reinstated in service with full back wages in the interest of justice.

4. It shall be worthwhile to mention here that during the pendency of this reference, according to the record, the workman died on 18-2-03.

5. The management filed their Written Statement. Their case in brief is as follows. The workman Shri Frank Peter was chargesheeted under Rule 14 of CCS (CCA) Rules 1965 wherein the following allegations were contained :

“Orally abusing and physically assaulting superior staff while on duty.” The workman denied allegations and disciplinary authority was pleased to appoint an Enquiry Officer to enquire into the allegations. The Enquiry Officer in his report held that the charges were not proved. However, the disciplinary authority dissented the findings of the Enquiry Officer and after recording his reasons, the workman was given an opportunity to submit his representation. After considering the entire record of the case, the Disciplinary Authority rightly concluded that the allegations stood proved against the workman and considering the gravity of the proved offences, the Disciplinary Authority imposed the punishment of termination. The workman was provided with full opportunity to rebut the charges and the enquiry has been conducted in accordance with law. Further there is sufficient finding on record to establish the charges and the enquiry does not suffer from any infirmity. However if enquiry is vitiated for any reason, whatsoever, the management shall lead both oral and documentary evidence to prove the allegations against the workman before this Hon’ble Tribunal. It has been prayed by the management that this tribunal be pleased to adjudicate the reference

in their favour and further to hold that the workman is not entitled to any relief whatsoever.

6. The management filed Photostat copies of the record of DE. The order dated 25-7-99 of this tribunal reveals that the workman admitted all the DE papers filed by the management. My learned predecessor in office after having heard Shri S. Nagu, Advocate the learned counsel for workman and Shri Sajid Akhtar, the learned counsel for the management recorded his findings on preliminary issue vide order dated 30-10-01 whereby he held that the DE was not conducted in a just and proper manner against the workman and the departmental enquiry is vitiated. Thus he answered the preliminary issue accordingly. He also ordered that the management may produce its witnesses to prove the alleged misconduct of the workman. The above findings recorded by my learned predecessor in office vide order dated 30-10-01 shall form the part of this award.

7. The management in order to prove the misconduct of the workman examined their witness Shri Ashish Bhattacharjee, the then working as junior Works Manager, Ordnance Factory, Khamaria, Jabalpur.

8. Thereafter Smt. Manjula Peter, widow of the deceased workman as one of his legal heirs filed her affidavit as evidence. But later on Shri N. K. Salunke, Advocate the learned counsel for her did not press the said affidavit as evidence and submitted that no evidence is to be adduced. Shri N. K. Salunke, Advocate, the learned counsel for Smt. Manjula Peter made endorsement on the said affidavit of Smt. Manjula Peter to the above effect. Thus no evidence has been adduced by Smt. Manjula Peter, one of the legal heirs of the deceased workman.

9. I have heard Shri N. K. Salunke, Advocate the learned counsel for Smt. Manjula Peter, one of the legal heirs of the deceased workman and Shri Sajid Akhtar, Advocate—the learned counsel for the management. I have very carefully gone through the entire evidence on record.

10. The learned counsel for the workman submitted that management’s witness Shri Ashish Bhattacharjee has not stated on oath even a word for proving the misconduct of the workman. He submitted that this witness has given no evidence for proving the misconduct of the workman. Against the above, the learned counsel for the management submitted that the misconduct of the workman is proved from the oral evidence of victim/complainants adduced during the course of enquiry. In this respect, he placed reliance on 1989 (1-LLJ)-408 in the case of Idukki District Estate Workers Union V/s. Labour Court, Ernakulam and another decided by the Hon’ble High Court of Kerala. The following has been held therein :

“Evidence recorded at an enquiry which was found to be vitiated by the Labour Court is not wiped out and the said evidence taken by the management at the enquiry will constitute “material on record”. The

fact that the domestic enquiry was found to be vitiated will not have the effect of obliterating whatever was done in the course of the enquiry. Therefore evidence recorded at the domestic enquiry which was found to be vitiated could and should be considered."

In the case at hand only the victim/complainants during the course of enquiry deposed against the workman. Their deposition has not been corroborated by any independent evidence and therefore I am of the considered opinion that the findings recorded by the Enquiry Officer exonerating the workman of the charges is just, proper and legal.

In this case there is no need of re-appreciating the evidence of the two complainant witnesses whose evidence has been recorded during the course of enquiry. I have very carefully gone through the affidavit and evidence of cross-examination of the management's witness Shri Ashish Bhattacharjee. This witness has not deposed anything against the workman for proving his misconduct. Rather, on the date of alleged incident of misconduct, this witness was not posted at Ordnance Factory, Khamaria, Jabalpur (MP) where the incident is said to have taken place. According to his own deposition on the day of alleged incident, this witness was posted at Kanpur (UP). Thus the management has failed to prove the misconduct of the workman.

11. The learned counsel for the legal heir of the deceased workman submitted that vide order dated 30-10-01 of this tribunal, the departmental enquiry is vitiated and since the management has failed to prove the misconduct of the workman, the dismissal of the deceased workman from service vide order dated 2-1-91 and the rejection of appeal vide order dated 21-4-92 deserve to be set aside as being invalid. It is not disputed between the parties that during the course of this reference proceeding the workman expired on 18-2-03. The learned counsel further added that the dismissal order of the deceased workman being invalid, he should be deemed to be in service from the date of his alleged dismissal order from service till the date of his death. In support of his above contention, he attracted the attention of this tribunal towards provisions of Fundamental Rules 54 (B) which reads as under :

"(2) Notwithstanding anything contained in Rule 53, where a Government servant under suspension dies before the disciplinary or the Court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which workman would have been entitled had workman not been suspended, subject to

adjustment in respect of subsistence allowance already paid."

12. It has been submitted by the learned counsel for the Legal Heir of the deceased workman that the workman till his death shall be treated as on duty for all purposes and his family shall be paid full pay and allowances for which the workman would have been entitled. In view of the evidence discussed above, it is concluded that the dismissal order dated 2-1-91 of the deceased workman is null and void and under the circumstances, the management should be directed that the deceased workman may be treated as on duty for all purposes with entitlement to pay and allowances from the date of his alleged dismissal order from service till his death on 18-2-03 which shall be payable to the legal heirs of the deceased workman. The management should also be directed to calculate and to pay family pension to Smt. Manjula Peter, the widow of the deceased workman w.e.f. 18-2-03 and other pensionary benefits admissible under rules. The reference, therefore, should be answered in favour of the legal heirs of the deceased workman and against the management with costs.

13. In view of the above, the reference is answered against the management and in favour of the deceased workman with costs holding that the act of the management of General Manager, Ordnance Factory, Khamaria, Jabalpur (MP) in dismissing the services of deceased workman Shri Frank Peter is illegal. Consequently the dismissal order dated 2-1-91 of the deceased workman is hereby declared null and void. The management is directed that the deceased workman may be treated as on duty for all purposes with entitlement to pay and allowances from the date of his alleged dismissal from service till his death on 18-2-03 which shall be payable to the legal heirs of the deceased workman. The management is further directed to calculate and pay family pension to Smt. Manjula Peter, the widow of the deceased workman w.e.f. 18-2-03 and other pensionary benefits admissible under rules.

14. Copy of award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 22 अगस्त, 2006

का. आ. 3669.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत हैवी इलैक्ट्रिकल्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, न. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 139/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-8-2006 को प्राप्त हुआ था।

[सं. एल-42012/218/98-आई आर (डी यू)]

सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 22nd August, 2006

S.O. 3669.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 139/99) of the Central Government Industrial Tribunal-cum-Labour Court No. I, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Heavy Electricals Ltd. and their workman, which was received by the Central Government on 22-08-2006.

[No. L-42012/218/98-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE SHRI SANT SINGH BAL, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, NEW DELHI**

I.D. No. 139/99

In the matter of dispute between :

Shri S. N. Jha,
153 E, BHEL Colony,
Sector 17,
Noida (U.P.)-201 301.Workman

Versus

The Dy. General Manager,
Bharat Heavy Electricals Ltd.,
BHEL House,
Siri Fort,
New Delhi.Management

APPEARANCES :

None for parties.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/218/98/IR(DU) dated 26-4-1999 has referred the following Industrial Dispute to this Tribunal for adjudication :

"Whether the action of the Director (Personnel), Bharat Heavy Electrical Ltd., New Delhi in dismissing from services Shri S. N. Jha, Ex-Asstt. Staff No. 2906333 is legal and justified ? If not, to what relief the workman is entitled ?"

2. Perusal of the record shows that the workman is not appearing in this case for the last many hearings. Workman appeared on 11-4-2002 and thereafter he did not appear on subsequent dates i.e. 23-07-2002, 24-10-2002, 23-12-2002, 18-03-2003, 22-05-2003, 28-08-2003, 11-12-2003, 18-03-2004, 01-06-2004 when notice was ordered to be issued to the workman through speed post and last opportunity was granted for his appearance. He did not appear on subsequent dates also i.e. 24-08-2004, 30-11-2004, 29-12-2004, 09-03-2005 when workman was proceeded ex parte and case was fixed for evidence of the management

on the next date when Shri Manu Srivastava proxy A/R for management appeared and requested for adjournment and the case was adjourned 14-06-2005 for management evidence. On 14-06-2005 management filed affidavit and thereafter case was adjourned on different dates on 30-08-2005, 07-11-2005, 24-01-2006, 25-04-2006, 25-07-2006 and today i.e. 08-08-2006 for cross-examination of the management witness. Neither the workman nor anybody on his behalf is present. It appeared that none of the parties is taking interest in prosecution of the case giving rise to the presumption that the workman is not disputing the action of the management. As such No dispute Award is passed accordingly. File be consigned to record room.

Dated : 8-8-2006

SANT SINGH BAL, Presiding Officer.

नई दिल्ली, 22 अगस्त, 2006

का. आ. 3670.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, मुम्बई के पंचाट (संदर्भ संख्या सी पी आई टी-1/4 ऑफ 1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-8-2006 को प्राप्त हुआ था।

[सं. एल-40012/151/92-आई आर (डी यू)]
सुरेन्द्र सिंह, डैस्क अधिकारी

New Delhi, the 22nd August, 2006

S.O. 3670.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-1/4 of 1994) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 22-08-2006.

[No. L-40012/151/92-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI**

PRESENT :

Justice Ghanshyam Dass, Presiding Officer.

Reference No. CGIT 04 of 1994

PARTIES :

Employers in relation to the management of Telecom,
Pune.

AND

Their Workmen.

APPEARANCES:

For the Management : Mrs. Neeta Masurkar,
Advocate.

For the Workman : Absent.

State : Maharashtra

Mumbai, dated the 2nd day of August, 2006

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 and sub-section 2A of Section 10 of the Industrial Dispute Act, 1947 (the Act for short). Vide Government of India, Ministry of Labour, New Delhi, Order No. L-40012/151/92-IR(DU) dated 10-1-1994. The terms of reference given in the schedule are as follows :

"Whether the action of the management of Deptt., of Telecommunication in relation to Pune division of its coaxial cable project in terminating the services of Shri Ramesh B. Tigadi, casual mazdoor is justified? If not, to what relief the workman is entitled to?"

2. This reference was decided on 12-11-2003 by the then Presiding Officer of this Tribunal in favour of the workman and the workman was ordered to be reinstated with continuity in service with 50% of back wages. This Award was challenged by the Bharat Sanchar Nigam Ltd. before the Honourable High Court of Bombay vide writ petition No. 6370 of 2004. The writ petition was decided by the Honourable High Court vide order dated March 3, 2005. The writ petition was allowed and the matter was remanded to this Tribunal for fresh decision with a direction of framing of two more additional issues with liberty to both the parties to lead evidence. On receipt of this case, following two additional issues were framed in accordance with the direction of the Honourable High Court.

- (1) Whether the management/employer had terminated or caused termination of service either in writing or orally of the employee or claimant?
- (2) Whether the workman made a stale claim? If so, its effects.

3. The management filed the affidavits of Shri R. R. Kshirsagar Sub-Divisional Engineer on 25-11-2005. This witness could not be cross-examined on behalf of the workman by his Advocate for the reason the workman did not appear to contest the matter. His Advocate Shri J. P. Sawant, informed that the workman was not showing any interest into the case despite due information. The notice was also issued by this Tribunal to the workman but he did not appear despite service of notice.

4. In this circumstances, I heard the learned counsel for the Management ex parte and perused the record myself.

5. After going through the record, it is clear that evidence of Mr. Kshirsagar goes unchallenged. There is no evidence on record in favour of the workman. Hence, it is difficult to give any finding in favour of the workman who himself is not interested in contesting the matter. The termination of the workman is thus held to be justified. Hence, the workman is not entitled to any relief at this juncture.

6. The reference is dismissed.

JUSTICE GHANSHYAM DASS, Presiding Officer.

नई दिल्ली, 22 अगस्त, 2006

का. आ. 3671.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-1/22 ऑफ 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-8-2006 को प्राप्त हुआ था।

[सं. एल-40011/15/2003-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 22nd August, 2006

S.O. 3671.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-1/22 of 2003) of the Central Government Industrial Tribunal-Labour Court No. I, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 22-08-2006.

[No. L-40011/15/2003-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI**

PRESENT:

Justice Ghanshyam Dass, Presiding Officer.

Reference No. 22 CGIT of 2003

PARTIES:

Employers in relation to the management of BSNL,
Electrical Division.

AND

Their workmen.

APPEARANCES:

For the Management : Mr. Narayanan,
Advocate.

For the Union : Mr. Ameta

State : Maharashtra

Mumbai, dated the 1st day of August, 2006

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 and sub-section 2A of Section 10 of the Industrial Dispute Act, 1947 (the Act for short). Vide Government of India, Ministry of Labour, New Delhi, Order No. L-40011/15/2003-IR(DU) dated 7-5-2003. The terms of reference given in the schedule are as follows :

“Whether the demand of Mumbai Port Trust General Workers Union from the management of Telecom Department for regularization of the services of Smt. Santarabai T. Ghehelot, Sweeper is justified ? If so, to what relief the workman is entitled ?”

2. The workman Smt. Santarabai T. Ghehelot has contended that she was employed by the First Party Employer, the Department of Telecommunication then and now the Bharat Sanchar Nigam Limited as successor in interest since 1987 as a Part-time Sweeper and Water woman and she has been in service as such since then. She has been removed from service orally, abruptly and without following due process of law as prescribed under the Industrial Dispute Act 1947 (hereinafter referred to as the Act for short) in or about 2001. She has claimed regularization/reinstatement as she cannot be denied job in the manner as done by the Management and further on the ground that similarly placed other employees had been regularized by the Management and she has been denied the opportunity malaafidely.

3. The Management has contended that the workman was only a part time sweeper who worked as such for less than four hours a day. She was not in continuous service since 1987. She has not given out any actual date of appointment or the actual date of termination. The work allotted to the workman was casual. She could not claim any regularization under the law. She was given the work as and when the work was there probably on part time basis. Hence the question of issue of any memo/charge sheet/departmental enquiry does not arise for termination. It is also denied that there is no vacancy available and the Management would recruit the same as and when it occurs after following the rules laid down for recruitment, that is by calling applications from Employment Exchange, screening them and sending them for medical examination and the workman may attempt at that time, but she cannot be permitted backdoor entry.

4. The workman filed her affidavit in lieu of her examination in chief wherein she has reiterated the facts regarding her continuous employment as part-time sweeper and water woman. She has been cross-examined by the learned Advocate for the Management. She was not employed through Employment Exchange. She worked at different branches and lastly she was told that the work has been allotted to Contractor. She was paid through vouchers. She made written request for regularization. She went on repeating the demands for regularization orally. She was regularly paid for the engagement.

5. The Management filed the affidavit of Shri V. Narayana, Executive Engineer (Electrical) in lieu of examination in chief. The affidavit is very short. It has been averred therein that the workman was appointed as part time sweeper on intermittent periods as and when the work was there and there was no question of any regularization. He has been cross-examined by the learned counsel for the workman wherein he stated that I have no personal knowledge of the facts and whatever has been stated in the affidavit is based on record. He has reiterated that there is no vacancy of sweeper at present and the work has been allotted to the Contractor.

6. I have heard the learned counsel for the parties and gone through the written submissions made by them. I have also perused the record.

7. The only question for consideration in this case is as to whether the workman who was admittedly working as part time casual worker could be ordered to be regularized or that termination is justified.

8. There is no dispute about the fact that the workman worked always as a part time casual worker. There is no regular appointment. The appointment came in accordance with the requirement of the work. No evidence is available on record to conclude that the appointment is continuous since the order of its inception. The burden lies upon the workman but it has not been discharged. However, the fact remains that she was in service as a part time casual worker for a sufficient long time of years together. It is also a fact on record that there is no vacancy for the post of sweeper as stated by Management and not rebutted by the workman by any evidence.

The learned counsel for the Management relies upon the latest law laid down by the Honourable Supreme Court in the popular case in between Secretary, State of Karnataka and others vs. Umadevi and others in 2006(1) SC Service Law Judgement page 480. In this case the Honourable Supreme Court after thrashing out the law as a whole laid down certain propositions and the crux of the matter is that merely a temporary employee or a casual wage worker though continued in service for years together would not be entitled to be absorbed in regular service if the original appointment was not made by following due process of

selection as envisaged by the relevant rules. The contractual appointment comes to an end at the end of the contract. The casual worker not appointed after following due process of selection have been denied the right of regularization as a matter of right.

10. The learned counsel for the workman has placed reliance on the law laid down by the Honourable Supreme Court in the following cases :

- (1) Smt. Sakubai and Anr. Vs. The Secretary, Min. of Communication, ATJ 1993(2) 197 Full Bench (CAT Hy.).
- (2) Ajaib Singh Vs. The Sirhind Co-op. Mktg.-cum-Process.Ser. Soc. Ltd. and Anr. IN 1999(4) Supreme Court page 51.
- (3) S. M. Nilajkar and Ors. Vs. Telecom, Dist. Manager, Karnataka in SC SLJ 2003(I) 348 Supreme Court.
- (4) Workmen of Bhurkunda Colliery of Central Coalfields Ltd. and Anr. Vs. Management of Bhurkunda Colliery of Central Coalfields Ltd. and Anr. 2006 I CLR 635 Supreme Court.

II. After going through the law laid down by the Honourable Supreme Court in the cases relied upon by the learned counsel for the parties (supra), I conclude that the workman is not entitled to any regularization in view of the admitted position that the workman was a part time casual worker and allotted the work in accordance with the requirement of the work for irregular periods with intervals which came to end on the close of last day. No evidence for continuous work for 240 days in the year is there. The non-allotment of work did not amount to retrenchment. No evidence is there to show that similarly placed other employees had been regularized by the Management. Further, there is no regular vacancy and it is also alleged that work is now allotted to Contractor, she could not claim regularization keeping in mind the facts and circumstances of the present case. Since there is no vacancy the question of regularization does not arise. No doubt, the part time work was allotted to the workman for the last about more than 20 years but that did not create any right under the law for regularization more particularly when the allocation of work was not in accordance with the rules and regulations. The part time employment was there in accordance with the requirement of the work and on that basis the question of regularization did not arise. The long engagement in work leads to the inference that there was work for sweeping and cleaning for irregular periods.

12. Considering the settled legal position, I conclude that the workman is not entitled for regularization. The action of the management in terminating the services of the workman is held to be just. However, it would be just and fair if the Management continues to provide part time

work to the workman as and when opportunity arises in preference to other workman employed for that purpose either by the Management itself or through contractor.

13. Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 22 अगस्त, 2006

का. आ. 3672.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-I, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-1/6 ऑफ 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-8-2006 को प्राप्त हुआ था।

[सं. एल-40012/240/2002-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 22nd August, 2006

S.O. 3672.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-1/6 of 2003) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workmen, which was received by the Central Government on 22-8-2006.

[No. L-40012/240/2002-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO. 1, MUMBAI

PRESENT:

Justice Ghanshyam Dass, Presiding Officer.

Reference No. CGIT-06 of 2003

PARTIES:

Employers in relation to the management of
Maharashtra Telecom Circle

AND

Their workmen.

APPEARANCES:

For the Management : Mr. Narayanan, Adv.

For the Union : Mr. Ameta

State :

Maharashtra

Mumbai, dated the 1st day of August, 2006

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (the Act for short). Vide Government of India, Ministry of Labour, New Delhi, order No. L-40012/240/2002 IR(DU) dated 30-12-2002/07/1/2003. The terms of reference given in the schedule are as follows :

“Whether the action of the management of BSNL in terminating the services of Smt. Nanu L. Makhana is just, fair and legal ? If not, to what relief the workman is entitled ?”

2. The workman Smt. Nanu L. Makhana has contended that she was employed by the First Party Employer, the Department of Telecommunication then and now the Bharat Sanchar Nigam Limited as successor in interest since 1988 as a Part-time Sweeper and she has been in service as such since then. She has been removed from service orally, abruptly and without following due process of law as prescribed under the Industrial Disputes Act, 1947 (hereinafter referred to as the Act for short) in or about 2001. She has claimed regularization/reinstatement as she cannot be denied job in the manner as done by the Management and further on the ground that similarly placed other employees had been regularized by the Management and she has been denied the opportunity mala fide.

3. The management has contended that the workman was only a part-time sweeper who worked as such for less than four hours a day. She was not in continuous service since 1988. She has not given out any actual date of appointment or the actual date of termination. The work allotted to the workman was casual. She could not claim any regularization under the law. She was given the work as and when the work was there probably on part time basis. Hence the question of issue of any memo/charge sheet/departmental enquiry does not arise for termination. It is also denied that there is no vacancy available and the Management would recruit the same as and when it occurs after following the rules laid down for recruitment, that is by calling applications from Employment Exchange, screening them and sending them for medical examination and the workman may attempt at that time; but she cannot be permitted back door entry.

4. The workman filed her affidavit in lieu of her examination in chief wherein she has reiterated the facts regarding her continuous employment as part-time sweeper. She has been cross-examined by the learned Advocate for the Management wherein she admitted that she was employed through her neighbour. She was not employed

through Employment Exchange. She worked at different branches and lastly she was told that the work has been allotted to Contractor. She was paid through vouchers. She did not make written request for regularization. She went on repeating the demands for regularization orally. She was regularly paid for the engagement. She had no grievances about the payment.

5. The Management filed the affidavit of Shri Sandip Mandal, Executive Engineer (Civil) in lieu of examination in chief. The affidavit is very short. It has been averred therein that the workman was appointed as part-time sweeper on intermittent periods as and when the work was there and there was no question of any regularization. He has been cross-examined by the learned counsel for the workman wherein he stated that I have no personal knowledge of the facts and whatever has been stated in the affidavit is based on record. He has reiterated that there is no vacancy of sweeper at present and the work has been allotted to the Contractor.

6. I have heard the learned counsel for the parties and gone through the written submissions made by them. I have also perused the record.

7. The only question for consideration in this case is as to whether the workman who was admittedly working as part-time casual worker could be ordered to be regularized or that termination is justified.

8. There is no dispute about the fact that the workman worked always as a part time casual worker. There is no regular appointment. The appointment came in accordance with the requirement of the work. No evidence is available on record to conclude that the appointment is continuous since the order of its inception. The burden lies upon the workman but it has not been discharged. However, the fact remains that she was in service as a part time casual worker for a sufficient long time of years together. It is also a fact on record that there is no vacancy for the post of sweeper as stated by the Management and not rebutted by the workman by any evidence.

9. The learned counsel for the Management relies upon the latest law laid down by the Honourable Supreme Court in the popular case in between Secretary, State of Karnataka and others Vs. Umadevi and others in 2006 (1) SC Service Law Judgement page 480. In this case the Honourable Supreme Court after thrashing out the law as a whole laid down certain propositions and the crux of the matter is that merely a temporary employee or a casual wage worker though continued in service for years together would not be entitled to be absorbed in regular service if the original appointment was not made by following due process of selection as envisaged by the relevant rules. The contractual appointment comes to an end at the end of the contract. The casual worker not appointed after following due process of selection have been denied the right of regularization as a matter of right.

10. The learned counsel for the workman has placed reliance on the law laid down by the Honourable Supreme Court in the following cases :

- (1) Smt. Sakubai and anr. Vs. The Secretary, Min. of Communication, ATJ 1993(2) 197 Full Bench (CAT Hy.)
- (2) Ajaib Singh Vs. The Sirhind Co-op. Mktg.-cum-Process. Serv. Soc. Ltd. and Anr. In 1999 (4) Supreme Court page 51.
- (3) S. M. Nilajkar and Ors. Vs. Telecom, Distt. Manager, Karnataka in SC SLJ 2003(1) 348 Supreme Court.
- (4) Workmen of Bhurkunda Colliery of Central Coalfields Ltd. and Anr. Vs. Management of Bhurkunda Colliery of Central Coalfields Ltd. and Anr. 2006 1 CLR 635 Supreme Court.

11. After going through the law laid down by the Honourable Supreme Court in the cases relied upon by the learned counsel for the parties, (supra) I conclude that the workman is not entitled to any regularization in view of the admitted position that the workman was a part time casual worker and allotted the work in accordance with the requirement of the work for irregular periods with intervals which came to end on the close of last day. No evidence for continuous work for 240 days in a year is there. The non-allotment of work did not amount to retrenchment. Further, there is no regular vacancy and it is also alleged that work is now allotted to Contractor, she could not claim regularization keeping in mind the facts and circumstances of the present case. Since there is no vacancy the question of regularization does not arise. No doubt, the part time work was allotted to the workman for the last about more than 20 years but that did not create any right under the law for regularization more particularly when the allocation of work was not in accordance with the rules and regulations. The part time employment was there in accordance with the requirement of the work and on that basis the question of regularization did not arise. The long engagement in work leads to the inference that there was work for sweeping and cleaning for irregular periods.

12. Considering the settled legal position, I conclude that the workman is not entitled for regularization. The action of the management in terminating the services of the workman is held to be just. However, it would be just and fair if the Management continues to provide part time work to the workman as and when opportunity arises in preference to other workman employed for that purpose either by the Management itself or through contractor.

13. Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

263/GI/06-13

नई दिल्ली, 22 अगस्त, 2006

का. आ. 3673.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं.-1, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-1/7 ऑफ 2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-8-2006 को प्राप्त हुआ था।

[सं. एल-40012/241/2002-आई आर (डी यू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 22nd August, 2006

S.O. 3673.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-1/7 of 2003) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 22-8-2006.

[No. L-40012/241/2002-IR (DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO. 1, MUMBAI**

PRESENT:

Justice Ghanshyam Dass, Presiding Officer

Reference No. CGIT-07 of 2003

PARTIES:

Employers in relation to the management of Telecom Elec. Circle.

AND

Their workmen.

APPEARANCES:

For the Management : Mr. Narayanan, Adv.

For the Union : Mr. Ameta

State Maharashtra

Mumbai, dated the 1st day of August, 2006

AWARD

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 and sub-section 2A of Section 10 of the Industrial Disputes

Act, 1947 (the Act for short). Vide Government of India, Ministry of Labour, New Delhi, order No. L-40012/241/2002-IR(DU) dated 30-12-2002/07/1/2003. The terms of reference given in the schedule are as follows :

“Whether the action of the management of BSNL in terminating the services of Smt. Malti Chougule, is just, fair and legal ? If not, to what relief the workman is entitled ?”

2. The workman Smt. Malti Chougule has contended that she was employed by the First Party Employer, the Department of Telecommunication then and now the Bharat Sanchar Nigam Limited as successor in interest since 1979 as a part-time sweeper and water woman and she has been in service as such since then. She has been removed from service orally abruptly and without following due process of law as prescribed under the Industrial Dispute Act, 1947 (hereinafter referred to as the Act for short) in or about 23rd November, 2001. She has claimed regularization/reinstatement as she cannot be denied job in the manner as done by the Management and further on the ground that similarly placed other employees had been regularized by the Management and she has been denied the opportunity mala fide.

3. The Management has contended that the workman was only a part-time sweeper who worked as such for less than four hours a day. She was not in continuous service since 1979. She has not given out any actual date of appointment or the actual date of termination. The work allotted to the workman was casual. She could not claim any regularization under the law. She was given the work as and when the work was there probably on part-time basis. Hence the question of issue of any memo/charge sheet/departmental enquiry does not arise for termination. It is also denied that there is no vacancy available and the Management would recruit the same as and when it occurs after following the rules laid down for recruitment, that is by calling applications from Employment Exchange, screening them and sending them for medical examination and the workman may attempt at that time; but she cannot be permitted backdoor entry.

4. The workman filed her affidavit in lieu of her examination-in-chief wherein she has reiterated the facts regarding her continuous employment as part-time sweeper and water woman. She has been cross-examined by the learned Advocate for the Management wherein she admitted that she was employed by Shri Jain. She was not employed through Employment Exchange. She worked at different branches and lastly she was told that the work has been allotted to Contractor. She was paid through vouchers. She did not make written request for regularization. She went on repeating the demands for regularization orally. She was regularly paid for the engagement.

5. The Management filed the affidavit of Shri R. G. Nakhate, Sub-Divisional Engineer (EA) in lieu of examination-in-chief. The affidavit is very short. It has been averred therein that the workman was appointed as part time sweeper on intermittent periods as and when the work was there and there was no question of any regularization. He has been cross-examined by the learned counsel for the workman wherein he stated that I have no personal knowledge of the facts and whatever has been stated in the affidavit is based on record. He has reiterated that there is no vacancy of sweeper at present and the work has been allotted to the Contractor.

6. I have heard the learned counsel for the parties and gone through the written submissions made by them. I have also perused the record.

7. The only question for consideration in this case is as to whether the workman who was admittedly working as part time casual worker could be ordered to be regularized or that termination is justified.

8. There is no dispute about the fact that the workman worked always as a part-time casual worker. There is no regular appointment. The appointment came in accordance with the requirement of the work. No evidence is available on record to conclude that the appointment is continuous since the order of its inception. The burden lies upon the workman but it has not been discharged. However, the fact remains that she was in service as a part-time casual worker for a sufficient long time of years together. It is also a fact on record that there is no vacancy for the post of sweeper as stated by the Management and not rebutted by the workman by any evidence.

9. The learned counsel for the Management relies upon the latest law laid down by the Honourable Supreme Court in the popular case in between Secretary, State of Karnataka and others Vs. Umadevi and others in 2006 (1) SC Service Law Judgement page 480. In this case the Honourable Supreme Court after thrashing out the law as a whole laid down certain propositions and the crux of the matter is that merely a temporary employee or a casual wage worker though continued in service for years together would not be entitled to be absorbed in regular service if the original appointment was not made by following due process of selection as envisaged by the relevant rules. The contractual appointment comes to an end at the end of the contract. The casual worker not appointed after following due process of selection have been denied the right of regularization as a matter of right.

10. The learned counsel for the workman has placed reliance on the law laid down by the Honourable Supreme Court in the following cases :

- (1) Smt. Sakubai and Anr. Vs. The Secretary, Min. of Communication, ATJ 1993(2) 197 Full Bench (CAT Hy.)

- (2) Ajaib Singh Vs. The Sirhind Co-op. Mktg. -cum- Process. Serv. Soc. Ltd. and Anr. In 1999 (4) Supreme Court page 51.
- (3) S. M. Nilajkar and Ors. Vs. Telcom, Dist. Manager, Karnataka in SC SLJ 2003(1) 348 Supreme Court.
- (4) Workmen of Bhurkunda Colliery of Central Coalfields Ltd. and Anr. Vs. Management of Bhurkunda Colliery of Central Coalfields Ltd. and Anr. 2006 ICLR 635 Supreme Court.

11. After going through the law laid down by the Honourable Supreme Court in the cases relied upon by the learned counsel for the parties, (supra) I conclude that the workman is not entitled to any regularization in view of the admitted position that the workman was a part-time casual worker and allotted the work in accordance with the requirement of the work for irregular periods with intervals which came to an end on the close of last day. No evidence for continuous work for 240 days in a year is there. The non-allotment of work did not amount to retrenchment. No evidence is there to show that similarly placed other employees had been regularized by the Management. Further, there is no regular vacancy and it is also alleged that work is now allotted to Contractor, she could not claim regularization keeping in mind the facts and circumstances of the present case. Since there is no vacancy the question of regularization does not arise. No doubt, the part-time work was allotted to the workman for the last about more than 20 years but that did not create any right under the law for regularization more particularly when the allocation of work was not in accordance with the rules and regulations. The part-time employment was there in accordance with the requirement of the work and on that basis the question of regularization did not arise. The long engagement in work leads to the inference that there was work for sweeping and cleaning for irregular periods.

12. Considering the settled legal position, I conclude that the workman is not entitled for regularization. The action of the management in terminating the services of the workman is held to be just. However, it would be just and fair if the Management continues to provide part-time work to the workman as and when opportunity arises in preference to other workman employed for that purpose either by the Management itself or through Contractor.

13. Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 23 अगस्त, 2006

का. आ. 3674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीमेन्ट कारपोरेशन ऑफ इन्डिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण, नई दिल्ली-2 के पंचाट (संदर्भ संख्या 58/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-8-2006 को प्राप्त हुआ था।

[सं. एल-29011/14/2002-आई आर (विविध)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 23rd August, 2006

S.O. 3674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/2002) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi-II as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Cement Corporation of India and their workmen, which was received by the Central Government on 23-8-2006.

[No. L-29011/14/2002-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

I. D. No. 58/2002

PRESENT:

Shri R. N. Rai, Presiding Officer

In the matter of:

The General Secretary,
D. G. U. Cement Factory Emp. Union,
Cement Corporation of India Limited,
Delhi Cement Grinding Unit,
Okhla Industrial Area, Phase-I,
New Delhi-110020.

Versus

The General Manager,
Cement Corporation of India Limited,
Delhi Cement Grinding Unit,
Okhla Industrial Area, Phase-I,
New Delhi-110020.

AWARD

The Ministry of Labour by its letter No. L-29011/14/2002 IR (M) Central Government, Dt. 16-7-2002 has referred the following point for adjudication.

The point runs as hereunder:

"Whether the action of the management of Cement Corporation of India in denying the facilities of House Rent Allowance and City Compensatory Allowance to the workmen working in their Delhi Cement Grinding Unit, Okhla Industrial Area, New Delhi is just, fair and legal? If not, what relief the workmen are entitled to and from what date?"

It transpires from perusal of the order sheet that the Union has present on 6-10-2005. Affidavit has been filed on 25-8-2004 but the union did not turn up for cross examination. The Union was not present on 6-12-2005. The Union wanted to file more affidavits but the union neither filed affidavit nor presented the witness for cross examination. The management has been present all alone. The union has not succeeded in proving the claim statement as the witness was not present for cross examination of the management. The averments of the claim statement have not been proved by the union.

The reference is replied thus :

The action of the management of Cement Corporation of India in denying the facilities of House Rent Allowance and City Compensatory Allowance to the workmen working in their Delhi Cement Grinding Unit, Okhla Industrial Area, New Delhi is just, fair and legal. The workman is not entitled to get any relief as prayed for.

Date : 11-8-2006

R. N. RAI, Presiding Officer

नई दिल्ली, 23 अगस्त, 2006

का. आ. 3675.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हट्टी गोल्ड माइन्स कं. लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट (संदर्भ संख्या 113/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-8-2006 को प्राप्त हुआ था।

[सं. एल-43012/9/99-आई आर (विविध)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 23rd August, 2006

S.O. 3675.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 113/99) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Hutti Gold Mines Co. Ltd. and their workmen, which was received by the Central Government on 23-8-2006.

[No. L-43012/9/99-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 10th August, 2006

PRESENT:

Shri A. R. Siddiqui, Presiding Officer

C. R. No. 113/99

I PARTY:

A. Venugopal,
H. No. 102,
Mel Venkatapuram,
Perunkanchi Post,
Sholinghur,
Via Vellore Distt.,
Tamil Nadu-631102

II PARTY

The Chairman,
Hutti Gold Mines Co. Ltd.,
Regd. Office,
1/5, Ulsoor Road,
Bangalore

APPEARANCES:

Shri N. Chandrasekharayya, ... 1st Party
Advocate

Shri N. S. Rajaram/Usha Rani, ... 2nd Party
Advocate

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-43012/9/99/IR(M) dated 17-11-1999 for adjudication on the following schedule :

SCHEDULE

"Whether the action of Hutti Gold Mines Co. Ltd., in imposing punishment of dismissal from service on Shri A. Venugopal is justified? If not, to what relief the workman is entitled?"

2. A chargesheet dated 11-9-1996 was issued to the first party workman as under :

"It is reported against you that on 7-9-1996 you were on duty from 11.00 AM to 7 PM shift, at 7 PM while you were leaving the company's premises through Gate No. 2 you were checked by the Security Personnel and they found about 100 gms. Bru Coffee powder packet which you had hidden inside your banian and the same was recovered. You had also accepted the act of your above theft about 100 gms. of coffee powder in your statement dated 7-9-1996 in the presence of security personnel and other witnesses. The above act of yours amounts to theft of company's property and is highly objectionable and amounts to misconduct as per company's Standing Order No. 19(36).

You are therefore, required to show cause in writing within 2 days of the receipt of this chargesheet as to why suitable disciplinary action should not be taken against you. If you do not submit your explanation within the above stipulated time, it would be construed that you have no explanation to offer and further necessary disciplinary action will be taken as per the Company Standing Orders.

In the mean time, you have been placed under suspension pending enquiry."

3. The explanation offered by the first party in response to the said chargesheet not being found satisfactory, the management ordered Domestic Enquiry against him and after findings of the enquiry officer holding him guilty of the charges of the misconduct alleged in the said chargesheet, he was served with the show cause notice along with the report of the enquiry officer proposing the punishment of dismissal and once again the explanation given by the first party not being found satisfactory proposed the punishment of dismissal was confirmed vide impugned punishment order dated 22-9-1996.

4. The first party workman (hereinafter called the workman) challenged the above said dismissal order as illegal and unjust, findings of the enquiry officer as not based on record and evidence not considered in its proper perspective, thereby, suffered from perversity and also challenged the enquiry proceedings on the ground that he was not given proper and sufficient opportunity to defend himself during the course of enquiry. He contended that enquiry officer was not justified in holding him guilty of the charges based on the explanation given by him and that the management should not have dismissed him from service, when the alleged theft property in question was worth paltry sum particularly, the management having reinstated into service the other so many employees who faced the charge of the theft of the properties of high value. He gave the names of Shri Amarappa Mill, Razak Driver, Shri Abdul Khadar, Shri Mani and Shri Mallikarjunaiah who were shown favour to the management in the cases of theft committed by them. Therefore, he requested this tribunal to pass an award reinstating him in to service with full back wages and all other consequential benefits setting aside the dismissal order passed against him and also to award compensation of Rs. 5 lakhs for the victimization suffered by him at the hands of the management.

5. The management by its counter statement after having taken the contention that the first party is not a workman as defined under section 2(s) of the ID Act and the dispute raised by him is not an industrial dispute, further contended that the first party having been caught red handed with the aforesaid theft property was served with the chargesheet and thereafter, Domestic enquiry was conducted against him and on the basis of the enquiry findings holding him guilty of the charges, he was served with the show cause notice proposing the punishment of dismissal and once again his explanation not being found satisfactory, punishment of dismissal was confirmed. The management further contended that the enquiry conducted against the first party was in accordance with the principles of natural justice giving him sufficient and reasonable opportunity to defend himself and that enquiry findings were based on sufficient and legal evidence holding him guilty of the charges and in the result, the impugned

punishment order passed against him was legal and justified and punishment of dismissal was proportionate keeping in view the gravity of the misconduct committed by him.

6. In the light of the respective contentions taken by parties, with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal took up the question of validity of the enquiry proceedings as a Preliminary Issue calling upon the parties to lead evidence. The management on the said point examined the enquiry officer as MW1 and got marked six documents at Exs. M1 to M6 including the proceedings of the enquiry and the findings of the enquiry officer at Exs. M5 and M6, respectively. The first party also examined himself as WW1 by filing his affidavit by way of examination chief without getting marked any document.

7. After having heard the learned counsels for the respective parties, this tribunal by its order dated 8-2-2005 answered the findings on the above said issue against the management holding that the enquiry held against the first party by the management was not fair and proper. Thereupon, on merits of the case management, examined 3 witnesses, as MW2 to MW4 and the first party after having relied upon his affidavit evidence already filed on the point of DE was further cross-examined on behalf of the management.

8. Learned Counsel for the management, Smt. Usha Rani for Shri N. S. Rajaram argued that charge of the theft against the first party has been much established in the oral testimony of MW2 and MW3 coupled with the very admissions made by the first party by giving his statement at Ex. M7 on the very date of the incident and at Ex. M4 on the service of charge sheet. She submitted that though the quantity of the theft property namely, coffee powder is quite negligible with little value but keeping in view the gravity of the misconduct of theft, punishment of dismissal imposed upon the first party was very much proportionate and justified under the facts and circumstances of the case. On this point she relied upon the following four decisions :

1. 2002 FJR (Vol. 100) Mad 729.
2. 2000(4) LLN 571 SC.
3. 2004 (107) FJR 535 (SC).
4. 2004 Vol. 107 SC 741.

9. Whereas, the learned counsel for the first party Shri N. Chandrasekharayya in his arguments submitted that keeping in view the explanation offered by the first party to the charge sheet marked at Ex. M4 and in his affidavit filed before this tribunal that while working as a Supervisor in the Canteen of the management and while, preparing the coffee for the customers, he was in the habit of keeping the coffee powder sachet in his pocket and that

on the above said fateful day he had kept the coffee powder packet under his Banian and rushed to the main gate of the management company in a hurry having come to know that there was a telegram in his name and somebody was waiting outside the gate, he cannot be held responsible for the charge of the theft particularly, in view of the fact that no such misconduct was committed by the first party in his total service of 32 years and therefore, it is a case fit to exonerate the first party from the charge of theft. He submitted that even otherwise, keeping in view the quantity of the coffee powder and the unblemished service of the first party for a period of 32 years, punishment of dismissal is highly excessive and disproportionate to the gravity of the charges alleged against him.

10. After having gone through the records, I find substance in the arguments advanced for the Management. As noted above, the management examined three witnesses to prove the charge of misconduct against the first party. MW2, the first witness for the management says that while he was working as a Security Guard, at about 7 PM on 7-9-1996, the first party came near the gate after completing his work as usual and he took his personal search and found Coffee Powder about 100 gms kept behind his Banian and he handed over him to Inspector by name A. M. Mali Patil, who in turn handed over him to Shri Raya Reddy, Security Officer, who called one Mr. Veerana Gowda under whom the first party was working and recorded the statement of first party. MW3 is said to be an Assistant Metallurgist who was looking after the canteen affairs as a Secretary, when the first party was working in the said canteen as a Supervisor. In his Statement, MW3 says that on 7-9-1996 at about 7.30 P.M., while, he was at his home, somebody from Administrative office of the management came and told him that the first party was caught with the coffee powder while leaving the company. Then he arrived at the spot and the statement of the first party was recorded at Ex. M7. Testimony of MW4, who was working as a time officer at the relevant point of time is not very much relevant for the purpose as he just stated about the dismissal order passed by the management marked at Ex. M8. Now, therefore, from the above statements of MW2 and MW3, it becomes crystal clear that on 7-9-96 at about 7 P.M. while the first party was leaving the company through its main gate his person was searched by MW3 and he was found keeping coffee powder about 100 gms. under his Banian and MW2 as a Security Guard having found the first party with the said theft property handed over him to the inspector concerned who in turn handed over him to the then Security Officer by name Raya Reddy and thereafter the incident was brought to the notice of MW3. It is very interesting to note that there was no suggestion to MW2 denying his above said statement that first party was caught red handed by him being taken search of his person near the gate of the company. The only suggestion made to MW2 was that the first party had received the telegram and rushed to the

gate to meet his wife standing outside the gate and it is at that moment he was caught by MW2. MW2 denied the suggestion that his wife was standing outside the gate of the company and showed his ignorance if any such telegram was received by the first party on that day. Therefore, the statement of MW2 with regard to the fact that he caught the first party red handed with the theft property has gone absolutely undenied and unchallenged in his cross-examination for the first party. Likewise, the statement of MW3 that he recorded the statement of the first party at Ex. -M7 whereunder he admitted the fact of he being found with coffee powder on his person being caught by the Security Guard has also not been challenged in the cross-examination of MW3. On the other hand in his cross-examination, it was elicited that Ex. M7 is under the signature of the first party and he has signed at Ex. M7(a). There was once again a suggestion made to MW3 that on that day first party had come to the gate to receive the telegram and kept coffee powder under the Banian in a hurry to come there. Therefore, in the above said oral testimony of MW2 and MW3, there is ample evidence brought on record to suggest that first party was caught red handed with the coffee powder when came to the main gate after having completed his shift work at about 7 P.M. on 7-9-1996. As noted above, from the very suggestion made to MW3 in his cross-examination as well as MW2, it gets clear that the first party instead of disputing the fact of being caught with the coffee powder on the above said date and at the above said timing took up the defence that he had rushed to the gate to receive the telegram and to meet his wife standing outside the gate. The first party in order to support his defence, relied upon his statement/explanation at Ex. M4, which he made in response to the charge sheet by saying that the above said statement gives the reference of the telegram he received and that he also had submitted the telegram along with his explanation. He did not dispute the fact that he had given such a statement/explanation at Ex. M4 stating that when the Security Personnel checked him he was found with coffee powder kept under his Banian. As argued for the management, statement of first party that he received the telegram and rushed to the gate in hurry appears to be an after thought statement, when we take into consideration his statement marked at Ex. M7 given by him on 7-9-1996 itself, as deposed by MW3 in his examination chief referred to supra. In the said statement once again on the very date of the incident, in no uncertain words, under his own handwriting first party had admitted the act of carrying coffee powder along with him being caught by the Security Guard but made no mention of the fact that he received any telegram on that day and rushed to the gate in a hurry. The fact that the first party was caught at the gate at 7 PM after having completed his shift between 11 AM and 7 PM is again not disputed by the first party. Therefore, it is to be presumed that he came near the gate at 7 PM after having completed his shift and not came to the said gate on getting any

information about the telegram or that somebody was waiting for him outside the gate. Even, assuming for a moment that he had received such information of receiving the telegram or somebody was waiting outside the gate, that cannot be any justification for the first party to rush to the gate along with the coffee powder which was supposed to be kept in Canteen to be handled by him as Supervisor in the Canteen. Therefore, keeping in view the above said oral testimony of MW2 and MW3 and the very admissions made by the first party of he being found with the coffee powder being caught by the Security Guard by way of his statement at Ex. M7 and by way of his explanation at Ex. M4 and so also by way of suggestion to the above said two witnesses, it can be safely concluded that charge of theft leveled against the first party has been proved by sufficient and legal evidence and therefore, he must be held guilty of the said charge.

11. Now, coming to the question of quantum of punishment, it is not in dispute that the first party has got a chequered record of unblemished service of 32 years without any misconduct being committed by him much less, the misconduct of theft and so also keeping in view the nature of the property, its quantity and the value and not loosing the sight of the undisputed fact that he attained the age of superannuation already as on September 2004, it appears to me that ends of justice will be met if the first party is punished with the penalty of compulsory retirement from service. The principles laid down in the various decisions referred to supra and cited on behalf of the management, in my humble opinion, will not be applicable to the facts and circumstances of the present case keeping in view the above said mitigating circumstances in favour of the first party. Hence the following award :

AWARD

The first party is held to be guilty of the charges of misconduct of theft and is hereby punished with the Compulsory Retirement from service from the date of the impugned punishment order already passed against him i.e. w.e.f. 22-11-1996. He shall be paid service benefits as contemplated under the Certified Standing Orders of the management company dealing with the scheme of Compulsory Retirement w.e.f. the above said date. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 10th August, 2006).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 23 अगस्त, 2006

का. आ. 3676.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई. ओ. सी. एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली-II के पंचाट (संदर्भ संख्या 46/2005) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 23-8-2006 को प्राप्त हुआ था।

[सं. एल-30012/6/2005-आई आर (विधि)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 23rd August, 2006

S.O. 3676.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 46/2005) of the Central Government Industrial Tribunal-cum-Labour Court, New Delhi-II as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of IOCL and their workmen, which was received by the Central Government on 23-8-2006.

[No. L-30012/6/2005-IR(M)]

B. M. DAVID, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

I. D. No. 46/2005

Shri R. N. Rai, Presiding Officer

In the matter of :

Shri Mohan Kumar,
S/o Shri Budhai Ram,
R/o C-99, Pratap Vihar, Part-III,
Delhi-110041

Versus

1. The General Manager,
Indian Oil Corporation Limited,
Yusuf Sarai,
New Delhi-110029
2. The Chief Plant Manager,
Indian Oil Corporation Limited Bottling Plant,
Tikri Kalan,
New Delhi

AWARD

The Ministry of Labour by its letter No. L-30012/6/2005 IR(M), Central Government, dt. 1-6-2005 has referred the following point for adjudication :

The point runs as hereunder :

"Whether the demand of the Bhartiya Shramjivi Sangh for reinstatement and regularisation of the services of Shri Mohan Kumar, Ex. Contract Labour employed through contractors in the establishment of Indian Oil Corporation Limited, Tikri Kalan Bottling Plant, New Delhi is just, fair and legal? If yes, what relief the workman is entitled and from which date?"

The workman applicant has filed statement of claim. It has been stated therein that he was appointed with the management of M/s. Indian Oil Corporation at Tikri Kalan Bottling Plant as Soapman/Cylinder Cap Fitter on 28-6-2002 and he continuously worked with the management till 11-10-2003.

That there is a notification of Government of India dated 21-10-1997 that the workman working on haulage be treated as regular employee being a trained one and particularly in view of the Basudevan Committee Report. The claimant workman should have been treated as a regular employee and should have been paid all the emoluments as that of a regular employee but he had been arbitrarily removed.

Notice has been sent to the management but the management has not turned up. The case proceeded ex parte. The workman has filed affidavit. Heard from the side of the workman ex parte.

It was submitted from the side of the workman that he has worked continuously from 28-6-2002 to 11-10-2003. The workman has not filed any appointment letter. He has admitted that he was engaged through a contractor and he has worked for more than 240 days. He might have been given fixed term appointment for the stipulated period. There is no employee-employer relationship between the workman and the management. He has worked for a short span of time. He has worked for more than 240 days but he has worked through a contractor. Section 25 F is not attracted when a workman has been engaged on contract basis. The workman has to establish that the work is of perennial and existing in nature and he has been engaged through several contractors for many years. In the instant

case the workman has worked for almost 15 months and he has not been re-engaged, so it cannot be said that the duties discharged by the workman are of perennial and continuous nature. He has not mentioned as to who else was taken in his place. The workman has to establish that he worked under the control and supervision of the management. There is no such document. It is not the case of renewal of contract. The contractor has given him fixed term appointment. He has not been even employed by the management. The workman does not deserve either reinstatement or regularisation.

The reference is replied thus :

The demand of the Bhartiya Shramjivi Sangh for reinstatement and regularisation of the services of Shri Mohan Kumar, Ex. Contract Labour employed through contractors in the establishment of Indian Oil Corporation Limited, Tikri Kalan Bottling Plant, New Delhi is neither just nor fair nor legal. The workman applicant is not entitled to get any relief as prayed for.

Date : 17-8-2006

R. N. RAI, Presiding Officer

CORRIGENDUM

New Delhi, the 30th August, 2006

S.O. 3677.—In the notification of the Government of India, Ministry of Labour and Employment published in the Gazette of India Part-II, Section 3, Sub-section (ii) dated 21st April, 2006 vide S. O. No. 1674, the Had Best No. 167 of Revenue Village Gahlewal shall be substituted by the Had Best No. 166 of Revenue Village Gahlewal.

[No. S-38013/32/2006-SS-I]
S. D. XAVIER, Under Secy.